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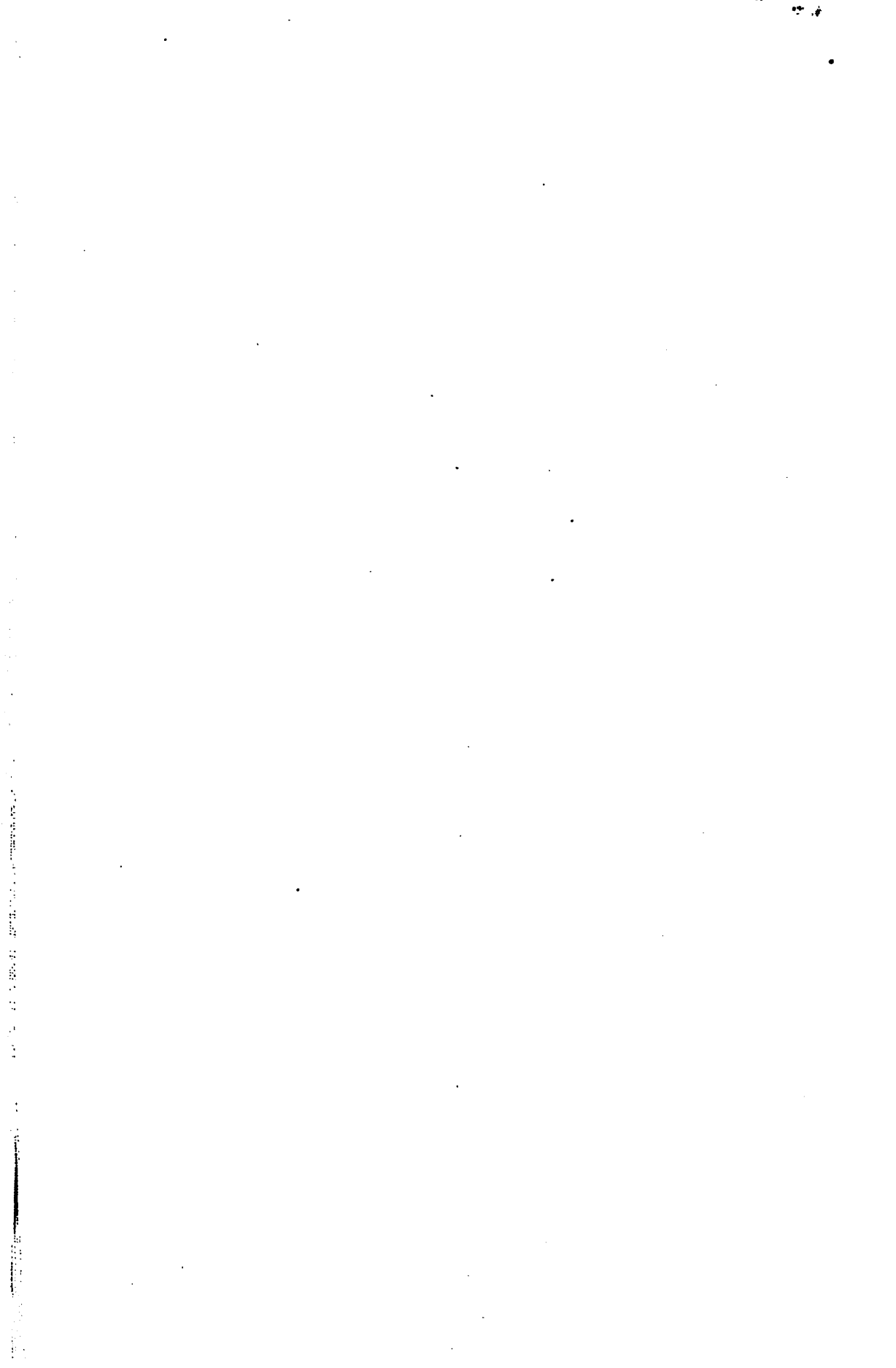
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The & Law of Contracts

By

WILLIAM HERBERT PAGE

Professor of Law in the Law School of the University
of Wisconsin; Author of *Page on Wills*;
Page and Jones on Taxation
by Assessments

SECOND EDITION

REVISED, REWRITTEN AND ENLARGED

WITH FORMS

VOLUME VII

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CINCINNATI

THE W. H. ANDERSON COMPANY
LAW BOOK PUBLISHERS

1922

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§ 3762. General form of contract.

This contract, entered into this _____ day of _____, A. D. 19—, at _____, by and between A. B. of _____ in the County of _____ and State of _____ party of the first part and C. D. of _____ in the County of _____, State of _____, party of the second part, WITNESSES:

The said party of the first part in consideration of the covenants and agreements of said party of the second part herein set forth hereby covenants and agrees

In consideration of the aforesaid covenants of said party of the first part, said party of the second part hereby covenants and agrees

And it is agreed by and between the parties hereto upon the considerations aforesaid, that in case of the failure of A. B. to perform the things covenanted by him _____. [Add conditions, covenant for liquidated damages, etc., and add a similar provision in case of breach by C. D.]

In witness whereof, the said parties have hereunto set their hands to duplicates hereof the day and year first above written.

Witness: E. F.,
G. H.

A. B.,
C. D.

For the execution of written contracts, see §§ 1173 et seq.
 For contracts within the statute of frauds, see §§ 1211 et seq.
 For incorporation by reference, see § 2044.
 For the effect on oral negotiations of reducing the contract to writing, see §§ 2137 et seq.
 For conditions, see §§ 632, 2574 et seq.
 For the nature and effect of the seal, see §§ 1156 et seq.
 For performance, see §§ 2785 and 2790 et seq.

§ 3763. Execution by agent.

In witness whereof the said A. B. by his agent X. Y. has hereunto set his hand the day and year first above written. A. B.,

By X. Y., as agent of A. B.

For liability arising on various forms of signature, see §§ 2103 et seq.

§ 3764. Execution by private corporation.

In witness whereof the said X. Y. Company has caused its corporate name to be signed hereto by L. M., its president, and it has caused its corporate seal to be hereto affixed by its said president, and it has caused such sealing and signing to be attested by A. B., its secretary.

The X. Y. Company,

By ———, President,

Attest ———, Secretary.

[Seal of corporation.]

For the power of private corporations to enter into contracts, see §§ 1969 et seq.

For contracts entered into through officers and agents of private corporations, see §§ 1793 et seq.

For the form of such contracts, see § 1993.

§ 3765. Execution by public corporation.

In witness whereof the said city of X. has caused its name to be signed hereto and its corporate seal to be affixed hereto by [insert title of duly authorized officer] on the day and year aforesaid.

City of X.,

By ———.

[Seal of corporation.]

For the power of public corporations to enter into contracts, see §§ 1884 et seq.

For the form of contracts of public corporations, see §§ 1935 et seq.

§ 3766. Condition—General form.

Provided, however, and this contract is upon this condition, that if [recite breach of condition] this contract shall be void and of no effect, and in such case [make provision for restitution or forfeiture as may be agreed upon]; but otherwise in case [recite performance of condition] this contract shall be and remain in full force and effect.

For conditions, see §§ 2574 et seq.

§ 3767. Condition—Breach of covenant as discharge at election of party not in default.

In case the said A. B. shall fail to perform his covenant hereinbefore set forth, whereby he agrees to [insert substance of specific covenant], the said C. D. may, at his election, declare such contract as terminated and discharged. Said election shall be made by a written notice to that effect, served on A. B. by the said C. D. or by someone authorized by said C. D. to serve such notice. In case said C. D. shall elect to treat such breach on the part of A. B. as a discharge of such contract, said C. D. may nevertheless maintain an action to recover damages arising out of said breach.

For a provision which is both condition and covenant, see § 2578.

§ 3768. Covenant for liquidated damages.

Whereas, the breach of the foregoing covenant will cause a serious and substantial damage to the said A. B., and whereas, it would be difficult, and in most cases impossible, to prove the amount of such damage, the said C. D. hereby covenants that in case of breach of the foregoing covenant on his part, he will pay to the said A. B. the sum of _____ dollars, within _____ days, after said breach; such sum being agreed upon by the parties as the amount to which the said A. B. will be damaged by the breach of said covenant on the part of C. D.

For penalties and liquidated damages, see §§ 2113 et seq.

§ 3769. Covenant making time of the essence of the contract.

It is mutually agreed between the parties to this contract that time is of essence thereof; and that in case either party shall fail to perform the covenants on his part to be performed, at the time fixed for the performance of such respective covenants by the terms of this contract, the other party may, at his election, terminate such contract.

For time as of the essence of the contract, see §§ 2103 et seq.

§ 3770. Consideration—Promise to pay debt barred by bankruptcy.

This contract entered into this _____ day of _____, 19____, by and between A. B. of the City of _____, State of _____, party of the first part, and C. D. of the City of _____, State of _____, party of the second part, WITNESSES:

Whereas, on or about the _____ day of _____, 19____, the said A. B. was indebted to the said C. D. upon [state nature of the claim] in the sum of _____ dollars; and whereas, subsequently thereto, on the _____ day of _____, 19____, said A. B. was duly adjudged a bankrupt in bankruptcy proceedings had before the [insert court before which such proceedings were had], and whereas said A. B. thereafter on the _____ day of _____, duly received his discharge in bankruptcy; and whereas said A. B., notwithstanding such discharge wishes to pay said debt due to said C. D.; now the said A. B. in consideration of the foregoing premises does hereby agree to pay to said C. D. the said sum of _____ dollars, upon the _____ day of _____, 19____.

In witness whereof, etc.

For a debt, barred by bankruptcy, as a consideration, see §§ 634 and 3166.

If the creditor has received a dividend in the bankruptcy proceedings, the contract should recite the amount of such dividend; and the amount thereof should be deducted from the principal and interest of the original debt.

If it is intended to pay such debt in instalments, the contract should set forth the amount of each instalment and the time at which it is to be paid.

Debt barred by bankruptcy as consideration for new promise, §§ 632, 3166 and 3166 et seq.

§ 3771. Special classes of contracts—Adoption.

This contract made this _____ day of _____, by and between A. B. of the City of _____, State of _____, party of the first part, and C. D. and E. F. [husband and wife] of the City of _____, State of _____, parties of the second part, WITNESSES:

That whereas said A. B. has a son G. H. who is now about _____ years of age, and whereas said C. D. and E. F. wish to adopt said G. H., and A. B. consents to such adoption:

It is hereby agreed between the said parties that the said C. D. and E. F. shall adopt the said G. H. (and the said C. D. and E. F. covenant that they will

institute proceedings in a court of competent jurisdiction for the purpose of effecting a legal adoption by them of said G. H.; and that they will cause such proceeding to be so conducted that a final decree of adoption shall be rendered by said court; and the said A. B. hereby agrees to enter her appearance in such proceeding and to give such consent as may be necessary to secure such decree of adoption).

The said C. D. and E. F. hereby agree to support and educate the said G. H. until he shall reach the age of twenty-one (21), as if the said G. H. were the child of the said C. D. and E. F., subject to the conditions hereinafter set forth. If such conditions, hereinafter set forth, shall be performed, said C. D. and E. F. agree that, in case they shall not furnish the said G. H. with proper support and education, they will pay a reasonable amount therefor to any person who shall furnish such support and education; and the person furnishing such support may maintain an action against said C. D. and E. F. upon this contract, to recover compensation for such support and education; and this contract is hereby declared to be for the benefit of any such person.

In case the said C. D. and E. F. fail to support and educate the said G. H. as hereinbefore set forth, and in case the said A. B. shall furnish support and education to said G. H., said C. D. and E. F. hereby agree to pay to said A. B. the amount which A. B. may expend for the support and education of said G. H.

The said A. B. hereby appoints the said C. D. and E. F., and the survivor of them, and the person named by the last will and testament, or other written appointment of the said survivor, as the guardian of the person and estate of the said G. H., with power to act as said guardian until said G. H. shall reach the age of twenty-one (21).

Said A. B. covenants to enter her appearance in any court of competent jurisdiction in which proceedings for the appointment of a guardian for the said G. H. may be instituted, and she further covenants to give such consent in such form as may be required to secure the appointment as guardian of the person or persons hereinbefore indicated.

The said A. B. further covenants that she will not revoke the aforesaid appointment, or power; and that she will not resist the appointment by said court, of the person or persons hereinbefore indicated, as guardian; and that she will not apply to any court for the appointment of any other person as guardian, subject to the conditions hereinbefore set forth.

Said A. B. covenants for herself and her executors and administrators that neither she nor any person acting with her authority or at her request shall interfere with the due and reasonable discipline, training and control to be exercised by the aforesaid C. D. and E. F. over the aforesaid G. H.

The said C. D. and E. F. do further covenant that they will make and execute a will and testament in due form, by which they will devise and bequeath to the said G. H. the undivided ——— part of their said estate.

This contract is subject to the following conditions:

If the said C. D. and E. F. shall not furnish proper support and education to the said G. H. and if they shall not furnish him with a comfortable home and treat him with the kindness due to their own child, the said A. B. may terminate this contract by a written notice to that effect, to be served upon the said C. D. or E. F. by the said A. B. or some person authorized by her to serve such notice. (In case the said A. B. shall elect to terminate such contract because of the conduct of the said C. D. and E. F., as aforesaid, the said C. D. and E. F. covenant that they will not resist a proceeding by the said A. B. in a court of competent jurisdiction to annul and set aside said decree of adoption.)

In case the said A. B. shall interfere or attempt to interfere with the control and management of the said G. H. by the aforesaid C. D. and E. F., the said C. D. and E. F. may at their option, terminate this contract by a written notice to that effect, to be served upon the said A. B. by the said C. D. and E. F., or some person appointed by them to serve such notice; and thereupon this contract shall terminate; but in such case the said C. D. and E. F. shall remain liable for the support and education of the said G. H., as aforesaid, up to the time of serving said notice.

This contract is furthermore upon the condition that the said G. H. shall behave as a dutifully and obedient child toward the said C. D. and E. F., and shall not marry without the consent of the said C. D. and E. F. until he reaches the age of twenty-one (21); and in case the said G. H. shall not conduct himself in the manner aforesaid, the said C. D. and E. F. may, at their election, terminate this contract in the manner hereinbefore set forth; but in such case, the said C. D. and E. F. shall remain liable for the support and education of the said G. H. up to the time at which such contract is thus terminated.

In witness whereof, etc.

Contracts of this sort are enforced only so far as they tend to promote the interests of the child. See §§ 934 et seq.

For specific performance, see §§ 3327.

Covenants as to place of residence and details as to religion, education and the like may be inserted; but they are of doubtful validity. See § 933.

§ 3772. Advertising contract.

This contract entered into on the — day of —, between the X. Y. Publishing Company of the City of — and State of —, and A. B. of the City of — and State of —, WITNESSES:

In consideration of the covenants of said A. B. hereinafter contained, the said X. Y. Publishing Company agrees to publish the advertisement of said A. B. in the [insert name of newspaper or magazine], said advertisement to occupy a space of — inches per issue, and to be inserted [state number of insertions and time thereof] for a period of [state time for which advertisement is to run] beginning with the number of [state number at which advertisement is to commence].

In consideration of the foregoing covenants on the part of the X. Y. Publishing Company, said A. B. covenants and agrees to pay for said advertisement, the sum of — dollars, payable in instalments of — dollars each, on the — day of each month, beginning with [insert date of first payment].

In witness whereof, etc.

Details as to style of advertisement, approval thereof by one or both parties, procedure in case of failure to furnish copy and provisions as to the consequences of the inability of the publisher to continue the publication of his newspaper are found more or less frequently.

§ 3773. Agency—Power of attorney.

Know all men by these presents: That I, A. B., of the — State of —, have made, constituted and appointed, and by these presents do make, constitute and appoint, C. D., of the — State of —, true and lawful attorney—, for — and in — name, place and stead to — [insert power which it is desired to confer], giving and granting unto —, said attorney—, full power and authority to do and perform all and every act and thing whatsoever, requisite and necessary to be done in and about the premises, as fully to all intents and purposes as — might or could do, if personally present, with full power of substitution and revocation; hereby ratifying and confirming all that — said attorney— or — substitute— shall lawfully do, or cause to be done, by virtue hereof.

In witness whereof, — have hereunto set — hand—, this — day of —, in the year one thousand nine hundred and —.

Signed and acknowledged in presence of us:

.....	
.....	
.....	

The State of —, County of —, ss.:

Be it remembered, That on this — day of —, A. D. nineteen hundred and —, before me, a —, in and for said County, personally came —, the constituent in the foregoing Letter of Attorney, and acknowledged the signing thereof to be — voluntary act, for the uses and purposes therein mentioned.

In testimony whereof, I have hereunto subscribed my name and affixed my — seal, on the day and year last above mentioned.

If the power of attorney confers power to convey realty, it must generally be executed in the same manner as a deed, and it must be recorded before such power is exercised, in many jurisdictions.

For forms for employment of agent, etc., see §§ 3853 et seq.

For contracts executed by agents, see §§ 1723 et seq.

For contracts executed by agents of private corporations, see §§ 1793 et seq.

For contracts executed by agents of public corporations, see §§ 1782 et seq.

For nature of liability arising on various forms of signature, see §§ 2091 et seq.

For agency in illegal contracts, see §§ 1118 et seq.

For time as of the essence, see §§ 2103 et seq.

For form of agency in contracts under the statute of frauds, see § 1320.

For the nature and effect of agency, see §§ 1723 et seq.

For death as discharge, see § 2682.

For the effect of war, see §§ 2747 et seq.

§ 3774. Annuity.

This contract entered into on the — day of —, between A. B., of the City of —, State of —, and C. D., of the City of —, State of —, WITNESSES:

That whereas the said C. D. has conveyed to the said A. B. certain property, described as follows [insert description], at the request of said A. B. and as consideration for the covenants of the said A. B. herein contained; and whereas the said A. B. hereby acknowledges the receipt of said property; now, said A. B. for himself, his heirs, executors and assigns does hereby covenant and agree to pay to the said C. D., for the life of said C. D., the sum of — dollars per annum, to be paid at the rate of — dollars per month, beginning with the first day of —, at —.

The said A. B. does furthermore covenant to execute and deliver to the said C. D. within — days from the date of this contract, his mortgage upon the following described property [insert description], conditioned upon the performance by the said A. B. of the covenants of this contract on his part to be performed.

In witness whereof, etc.

It is safer to execute and deliver the deed, mortgage and contract at the same time as a part of the same transaction. In such case the covenant for the mortgage may be omitted.

Express provisions as to the effect of the death of A. B. before that of C. D. may be inserted.

§ 3775. Apprenticeship.

This contract made and concluded at ———, ———, this ——— day of ———, A. D. 19—, by and between A. B. and C. D., his son [or daughter] of the ———, ——— County, ———, and E. F., of ———, ———, WITNESSES:

That the said C. D., aged ——— years, on the ——— day of ———, 19—, voluntarily and with the consent of said A. B., his father, has bound and does hereby bind himself as an apprentice to the said E. F., to serve from the date of this indenture until the ——— day of ———, 19—, to learn the trade and occupation of a ———.

The said C. D., for himself and by his father, the said A. B., hereby covenants and agrees to and with the said E. F., that he shall well, faithfully, honestly and diligently serve the said E. F. during the term aforesaid; that he will keep all the secrets of the said E. F.; that he will protect and preserve the property and goods of the said E. F., and in all things conduct himself as a faithful apprentice during said term.

The said E. F. hereby covenants and agrees to and with the said A. B. and C. D. that he will use the utmost of his endeavors to teach and instruct the said C. D. or cause him to be instructed in said trade or occupation of ———; that he will furnish and provide the said C. D. with good and sufficient food, drink, lodging, clothing, washing and all other necessities suitable for an apprentice during said term.

And the said E. F. further covenants and agrees to and with the said A. B. and C. D. that he will send the said C. D. to a ——— school for at least ——— weeks in each school year, until the said C. D. is ——— years of age, and, at the expiration of said term of service that he will furnish the said C. D. with [insert clothing, etc., with which the apprentice is to be supplied].

In testimony whereof, the parties have hereunto set their hands the day and year first above written.

_____,
_____,
_____.

This form is subject to local statutes which regulate apprenticeships.
The provision for school attendance must be so drawn as to comply with the provisions of the local compulsory education law.
For validity of infant's contract, see § 1584.

§ 3776. Partnerships—Articles of co-partnership.

Articles of agreement made and concluded this ——— day of ———, 19—, by and between A. B. and C. D., both of ———, WITNESSES:

Article I.—That the parties hereto have agreed to and do by these presents become partners under the firm name and style of A. B. & Company with the principal office and place of business in the ——— of ———.

Article II.—The purpose and business of said partnership shall be the ——— [description of business, as "manufacture and sale of ———," or, "the conducting of a retail shoe store, the buying and selling of shoes, rubbers, findings and other goods, wares and merchandise of a like nature"] and the doing of all things necessary and incident thereto.

Article III.—The said A. B. shall contribute to the capital of said partnership his skill, knowledge and experience as a ——— and his entire time and attention.

The said C. D. shall contribute to the capital of said partnership ——— (the sum of ——— dollars [\$——]) in cash [or the trade fixtures and stock in trade now located in the storeroom at No. ———, ——— street, ———, ———,

inventoried at ——— dollars (\$——), which valuation is hereby assented to by said C. D.].

Article IV.—The said A. B. shall devote his entire time, skill, labor and experience to advancing and rendering profitable the interests and business of said partnership and shall not engage in any other business or occupation whatever on his individual account during the existence of said partnership. Said C. D. shall not be required to devote any of his time or personal attention to the business of said partnership.

Article V.—Each partner may make and take contracts for and on behalf of the partnership business, but contracts or purchases involving a liability of more than \$—— shall be made only on full consultation and with the approval of both partners. All contracts shall be made and taken only in the firm name. In case of disagreement as to making, taking or assuming any contract or obligation by the firm, such contract or obligation shall not be made or entered into. Each partner shall have the right to discharge any employees hired by either of them.

Article VI.—Each partner agrees that all gain, profit, advantage and increase which shall arise by reason of said co-partnership or joint business as aforesaid, shall be, from time to time during the existence of said co-partnership, equally divided between them share and share alike, and all losses and expenses, as shall happen or to be incurred in said business without fraud, shall be paid and borne equally between them.

Article VII.—Neither partner shall release or cancel any indebtedness or obligation due to the partnership except on full payment (nor shall either give or extend credit to any persons or company without the consent of the other).

Article VIII.—Neither partner shall at any time sign the firm name, or his own name, or pledge the firm's credit, or his own individual credit, in any manner as surety or guarantor on any paper, bill, bond, note or draft, or other obligation whatsoever. Neither partner shall assign, pledge or mortgage any of the partnership property, or his interest therein, or do anything or permit any act whereby the firm's money, interests or property, or his interest therein, may be liable to seizure, attachment or execution.

Article IX.—Each partner shall faithfully and honestly do and administer each and every part of the work undertaken or taken charge of by him or by them solely for the profit and advantage of the partnership.

Article X.—There shall be kept at the principal office and place of business of said firm, at all times during the continuance of said partnership, true, accurate, full and complete books of account, in which shall be entered all moneys received and disbursed by said partners, or either of them, or their agents or employees; all goods, wares, merchandise and other property bought and sold for or on account of the business of the firm; all contracts, undertakings, obligations, debts and liabilities taken or incurred, and also all other matters and things in any manner appertaining or belonging to the business of said firm.

It shall be the duty of said A. B. to faithfully, carefully and accurately keep the books and accounts as aforesaid; and it shall be the duty of the said C. D. at all times, to furnish the said A. B. with true, accurate and complete information, account and data of all transactions and things by him undertaken, or under his charge.

Each partner shall, at all times, have free access to said books, and to all papers, documents and writings, belonging to the firm, without interruption or interference by the other.

Article XI.—It shall be the further duty of said A. B. to attend to, and have charge of, the finances, moneys and accounts of said firm, collect the bills, accounts and moneys due to the said partnership and make and prepare monthly statements of the same for the use of each of the said partners.

All moneys received by said partners, or either of them, from said business, or in any way coming thereto, shall be daily deposited in the ——— Bank of ———, or such other bank or banks as said partners shall mutually agree upon, to the account and credit of A. B. & Company. Each partner shall have the right, at all times, to inspect and examine all bank books of said firm.

All debts and obligations of said firm shall be paid by check on said bank account, or accounts. Checks for amounts less than ——— dollars (\$——) may be signed by A. B.; checks for amounts exceeding ——— dollars (\$——) shall be signed by A. B. and countersigned by C. D.

Article XII.—The said A. B. may draw, from the profits of said business, the sum of ——— dollars (\$——) per month. Any deficiency in said sum in any one month shall be made up to the said A. B. from the profits of subsequent months before any division of profits shall be made. The amounts so drawn shall be charged against the share of the profits of the said A. B. in each quarterly account hereinafter provided for.

Article XIII.—It is further agreed that they, the said partners, shall, on the ——— day of ———, 19—, and at the end of every three months thereafter, make and render each to the other a true, just and accurate account of all income and profits, by them, or either of them, made, and of all losses by them, or either of them, sustained, and of all receipts and disbursements by them, or either of them, received or made, and of all other things by them or either of them done, or suffered, in and about the partnership business; and the said quarterly accounts being so made, each shall deliver to the other, at such time, their equal shares of the profits of the business, and all moneys on hand shall be equally divided at such time, taking into consideration all amounts withdrawn by either of said partners for his own personal use during such preceding three months. But at all times amounts shall be left to the credit of the partnership, and not divided, sufficient to pay all debts and obligations of said partnership then unpaid, and for the reasonable requirements of the business thereof.

Article XIV.—This agreement shall be binding and in force and the term of this partnership shall be for the period of ——— years from the date hereof unless sooner terminated and dissolved by consent or by the death, bankruptcy, insolvency, or disability of either party.

Article XV.—At the time of dissolution of the partnership, or any termination thereof, the partners each to the other or in case of death, bankruptcy, insolvency or disability of either, the survivor to the executors, administrators, trustee, assignee or guardian of the other, shall make and render a true, just and final account of all partnership transactions, and adjust and fully settle all matters relating thereto. After payment of all debts and obligations of the partnership, all the property and assets of the firm shall be appraised at the true value thereof, and the said C. D. may select therefrom, at such valuation, property and assets to the value of ——— dollars (\$——), being the amount contributed by him to the capital of said firm, the property so selected to be and become the sole and individual property of the said C. D. All property and assets of said firm remaining after the selection so made by said C. D. shall be equally divided between the partners, share and share alike, and each partner, for himself, and his personal representatives, hereby agrees to execute all necessary instruments to invest the other with the sole right to the property appor-

tioned to such other and thereafter neither shall interfere with the same nor release any account, claim, debt or property apportioned to the other.

All contracts and obligations then outstanding and unperformed shall be fully completed and performed in the name and for the advantage and profit and at the expense of the partnership and all profits made or losses sustained thereby shall be equally divided share and share alike.

Article XVI—It is further mutually agreed and covenanted that no changes, alterations, additions, modifications or qualifications shall be made or had in the terms or provisions of any article or articles of this agreement unless the same shall be made in writing signed by each of the partners.

In witness whereof, the parties hereto have set their hands to duplicates hereof on the day and year first above written.

A. B.,
C. D.

For the nature and effect of the partnership, see §§ 1688 et seq.

For death as discharge, see § 2681.

For the effect of war, see § 2749.

For specific performance, see § 3355.

§ 3777. Article permitting one partner to purchase interest of other, on dissolution: Price to be arbitrated.

[Insert in Articles of Co-partnership, above, at end of Article providing for division of assets, on dissolution.]

Provided, however, that, on dissolution of said partnership, either partner shall have the right and option of purchasing the interest of the other in said partnership, by giving to such other, or to his personal representatives, notice in writing, of his intention so to do, within ——— days after dissolution. If said partners shall be unable to agree upon the sum or price to be paid for such interest, then the question of the value of such interest shall be submitted to the decision of three disinterested arbitrators, one to be chosen by each of the parties hereto and the third by the two so chosen, and the award, in writing, of any two of such arbitrators, as to such value, shall be final and conclusive between the parties.

And provided further, that if each partner, on dissolution, shall desire to purchase the interest of the other, under the provisions hereof, the partner who shall offer the highest sum or price shall be entitled to make such purchase.

See references under § 3776.

§ 3778. Article requiring partner to purchase or sell, on dissolution.

[Insert in Articles of Co-partnership, above, at end of Article providing for division of assets, on dissolution.]

Provided, however, that, on dissolution of said partnership, either partner may make a written offer to the other partner of the sum or price in cash for which he will purchase the interest of such other in said partnership, or for which he will sell his own interest therein to such other partner; and the partner receiving such offer shall, within ——— days thereafter, make his election, in writing, either to sell or to purchase for said sum or price; and if he fail so to do within said time, the partner who has made such offer is hereby given the right and option, within ——— days after the expiration of said time, at his own election, to purchase the interest of such other partner, or to sell his own interest to such other, for the sum or price so offered.

See references under § 3776.

§ 3779. Article providing for public sale of assets, on dissolution.

[Insert after Article providing for division of assets on dissolution.]

If, upon dissolution or other termination of this partnership, the partners are unable to agree upon a division of the assets, in kind, then all of the assets and property of said partnership, excepting accounts and bills receivable, shall be sold at public sale in the place of business of said firm, said sale being first advertised in at least two newspapers of general circulation in the _____ of _____; said sale to be conducted by an impartial auctioneer, or auctioneers, to be mutually agreed upon; the stock in trade to be sold piece by piece, or in small lots; and the trade fixtures to be sold in bulk. Each partner may bid and purchase at said sale.

See references under § 3776.

§ 3780. Article permitting either partner to dissolve partnership if capital becomes impaired.

[Insert in Articles of Co-partnership, above, immediately after Article providing for periodical accounts.]

If it shall appear, at any annual [or, quarterly] account, that losses have been incurred whereby the capital of said partnership has been reduced to _____ per cent. of the original investment, then either partner may dissolve said partnership by written notice thereof delivered or mailed to the other within _____ days after the taking of said account.

See references under § 3776.

§ 3781. Article permitting partner to dispose of his interest. After offering to other partner.

[Omit from Articles of Co-partnership, above, the prohibition against assignment, pledge or mortgage of the interest of either partner, and add the following to the same clause.]

Either partner may at any time sell his interest in said partnership, provided, however, that he shall first, in writing, offer the same to the other partner for a specified sum or price, and if such offer be not accepted, in writing, within _____ days thereafter, he may then offer the same to any person for the same or a higher sum or price; but no sale thereof shall be made to any third person or persons for any less sum or price, until after the same has been offered, in writing, to the other partner for the same less sum or price, and the offer at such less sum or price shall not have been accepted within _____ days thereafter.

See references under § 3776.

§ 3782. Article providing for arbitration.

If any controversy or difference shall arise between said partners, at any time during the continuance of said partnership, or thereafter and before final settlement, between the partners, regarding the business, accounts or transactions of said partnership, or the construction of these articles, or the valuation of assets, or the rights, powers or liabilities of the partners, or any other matter or thing connected with said partnership, then each and every such controversy and difference shall be submitted to the decision of three disinterested arbitrators, one to be chosen by each of the parties hereto, and the third by the two so chosen; and the award of a majority of said arbitrators shall be final and conclusive upon the parties hereto.

For general form of provision for arbitration, see § 3784 and cross-references thereunder.

§ 3783. Agreement of dissolution; One partner purchasing interest of other.

This contract entered into at ———, this ——— day of ———, 19—, by and between A. B. and C. D., WITNESSES:

That whereas under and by virtue of articles of co-partnership dated ———, 19—, the parties hereto have, since said time, as partners under the name and style of ———, been engaged in the ——— business in the ——— of ———, ———; and whereas said parties hereto have this day agreed to dissolve said partnership, and the said A. B. has agreed to purchase the interest of the said C. D. therein, and to continue said business; and the said C. D. has agreed to retire from said firm and to sell his interest therein to said A. B.;

Now therefore, it is mutually agreed by and between the parties hereto that the partnership heretofore existing between them be and is hereby dissolved, and each of the parties hereto does hereby release and forever discharge the other from all claims and demands whatsoever, in any manner arising under the articles of co-partnership hereinbefore referred to, or in any manner growing out of the business of said firm. Provided, however, such release does not apply to the agreements and covenants of these presents.

And the said C. D. in consideration of the sum of ——— dollars (\$——) to him paid by the said A. B., the receipt whereof is hereby acknowledged, does hereby sell, assign, transfer and set over unto the said A. B., his executors, administrators and assigns, all his interest in said partnership, including the stock in trade, fixtures, policies of insurance, accounts and bills receivable, and all rights and credits of every kind and nature, contracts and orders for goods sold by said firm but not yet delivered, the leasehold interest in the premises known as number ——— street, ———, the good will of said partnership, and all other property and assets of said partnership of every kind and nature whatsoever.

And said C. D. for the consideration aforesaid, does hereby covenant and agree that the schedule of debts and liabilities, appearing on the "Inventory Book" of said partnership on page ——— thereof, includes all and every debt and liability of the said partnership, and that he has not, at any time, contracted any debt or obligation for or on account of said partnership, other than as specified in said schedule; and that he has not collected, compromised or satisfied any account or bill receivable except as appears by the books of said partnership; that he has good right to assign his said interest in said partnership and that the same is free from all incumbrances whatsoever.

And the said C. D. does further covenant and agree, on the consideration aforesaid, and as an inducement to the said A. B., to pay the price aforesaid for his said interest, that he, the said C. D., will not, in any manner, either directly or indirectly, engage in the business of ——— in the ——— of ———, ———, for a period of ——— years from and after the date hereof, and that during said time he will not directly or indirectly, in any firm, corporation, or as an individual, or as an agent or employe, come into competition with said A. B. and will not interfere in any way or manner with the business, trade, good will or customers of said A. B.

In consideration whereof the said A. B. hereby promises and agrees to assume and pay all the debts and obligations of said partnership listed in the schedule of debts hereinbefore mentioned, and any and all other debts and liabilities which the said A. B. may have heretofore contracted, or may hereafter contract, and to indemnify and save harmless the said C. D. therefrom.

In witness whereof, the parties have set their hands to duplicates hereof the day and year first above written.

A. B.,
C. D.

See references under §§ 3776 and 3920.

For other forms of covenants in restraint of trade, see §§ 3920 (and note) and 3921.

For the validity of such covenants, see §§ 770 et seq.

For form of bond to protect retiring partner against liability on partnership debts, see § 3814.

§ 3784. Arbitration.

This contract entered into this _____ day of _____, at the City of _____, between A. B., of the City of _____, and C. D., of the City of _____, WITNESSES:

That, whereas, heretofore on or about the _____ day of _____, the said A. B. and the said C. D. entered into a contract for the [state substance of contract]; and whereas disputes have arisen between the said A. B. and C. D. as to the true meaning and construction of said contract, and as to the performance thereof, by the parties respectfully; and whereas A. B. and C. D. are mutually desirous of submitting this controversy to arbitration;

Now, therefore, the said A. B. and the said C. D. do hereby mutually covenant and agree that they will submit said controversy for arbitration to three arbitrators, two of whom shall be E. F. and G. H., and the third of whom shall be a person mutually to be agreed upon by the said E. F. and G. H. Said arbitrators shall fix a time and place for hearing and shall give notice thereof to the said A. B. and C. D., and shall give an opportunity to the said A. B. and C. D. respectively, to offer evidence in support of their respective contentions. The determination and award of said three arbitrators, or of any two of them shall be final and binding upon said A. B. and said C. D.; and the said A. B. and C. D. do covenant that they will well and truly perform the award thus made. Said award shall be made in writing, and signed by said arbitrators; and a true copy shall be given by said arbitrators to said A. B. and C. D. respectively, within _____ days of the date of said hearing. Said A. B. and C. D. each agrees to pay one-half ($\frac{1}{2}$) of the costs and expenses of said arbitration, including a fee of _____ dollars to be paid to each of the said three arbitrators.

The said A. B. and C. D. hereby covenant with each other that they will not revoke this contract for arbitration; or the authority and power herein conferred upon the arbitrators.

In witness whereof, etc.

Because of the power of the parties to revoke a common-law contract for arbitration, and because of the difficulty of recovering substantial damages for a breach of such covenant, a covenant for liquidated damages is sometimes inserted so as to provide compensation for the expense to which the parties have been put in preparing for arbitration.

For other forms of provisions for appraisal, arbitration and the like, see §§ 3777, 3782, 3821 and 3878.

For the validity of a contract for arbitration, see §§ 721 et seq. and 2527.

For submission, procedure, award, etc., see §§ 2528 et seq.

§ 3785. Assignment endorsed on instrument—Short form.

_____, 19____.

For value received, I hereby sell, assign, transfer and set over the within [name of instrument] to C. D. A. B.

For the nature and effect of assignment, see §§ 2235 et seq.

For the necessity of consideration for an assignment, see § 2293.

For the necessity of notice, see §§ 2274 et seq.

For defenses against the assignee, see §§ 2269 et seq.

For form of assignment of interest in theatrical contract, see § 3930.

For undue influence in the assignment of legacies and expectant interests, see §§ 474 et seq.

§ 3786. Assignment of account.

_____, 19—.

Whereas E. F. is indebted to A. B. for the various articles set forth therein; and whereas the following is a true copy of such account with all credits thereon [insert itemized copy of account]; and whereas the sum of _____ dollars is due from said E. F. to said A. B. on such account;

Now, therefore, I, the said A. B., do hereby assign, transfer and convey to C. D. the said claim against said E. F. upon said account; and I authorize said C. D. to collect the same without accounting for the proceeds to the said A. B.; and to bring an action therefor, or to give a receipt for the payment thereof as fully as the said A. B. could do.

Said A. B. does covenant with said C. D. that the said sum of _____ dollars is justly due from said E. F. to said A. B. upon said account; and that neither A. B. nor anyone claiming under him has done or will do any act to hinder, delay or prevent the collection of said account.

In consideration of the aforesaid value received, said A. B. guarantees that said C. D. will pay the said sum of _____ dollars to the said C. D. provided that said C. D. brings an action thereon within _____ months from the date of this assignment; and said A. B. covenants to pay the said C. D. any deficiency therein in case said action is brought as aforesaid and is promptly prosecuted to final judgment.

In witness whereof, etc.

A. B.

If the assignor does not desire to guarantee the payment of the account, the covenant of guaranty may be omitted and in its place the following form may be used:

Said A. B. covenants that said claim in the amount of _____ dollars against C. D. is just and lawful, and that said amount is due thereon; but this assignment is without recourse upon A. B. insofar as the solvency of said E. F. is concerned.

See references under § 3785.

§ 3787. Assignment of salary, earned and unearned.

This contract made this _____ day of _____, 19—, by and between A. B., of _____, and C. D., of _____, WITNESSES:

That the said A. B. for a valuable consideration, the receipt of which is hereby acknowledged, hereby sells, assigns, transfers and sets over unto the said C. D. all moneys now due, and all moneys which may hereafter become due him as salary or wages from E. F. & Company, his employer, between the date hereof and the _____ day of _____, 19—.

That the said A. B. may collect said salary as agent for said C. D. from said E. F. & Company, as the same becomes due, provided and on condition that the said A. B. shall pay the same to said C. D. on or before one day after the same becomes due.

That on failure of said A. B. to so pay over said salary to said C. D. the authority of said A. B. to collect the same as agent of said C. D. shall be revoked and the said C. D. shall thereafter have the sole right to collect said moneys.

In witness whereof, etc.

_____,
_____.

For the validity of assignments of wages, see §§ 2245, 2260 and 3739.

§ 3788. Assignment of land contract.

This contract made at _____, this _____ day of _____, 19—, by and between A. B., of the _____ of _____, County of _____ and State of _____, party of the first part, and _____ of _____, party of the second part, WITNESSES:

That the said party of the first part, for the consideration of ——— dollars (\$——), received to his full satisfaction of said party of the second part, hereby sells, assigns, transfers and sets over unto said party of the second part, his heirs and assigns, a contract for the sale of the following described tract or lot of land situated in the ——— of ———, County of ——— and State of ——— [insert description of property], together with all the hereditaments and appurtenances thereunto belonging, but subject to all legal highways, which said contract was executed and delivered to said party of the first part by one E. F., of the ——— of ———, County of ——— and State of ———, and bears date the ——— day of ———, 19——.

This assignment is made subject to all the covenants, conditions and payments contained in said contract.

Said party of the first part hereby covenants that he has paid on said contract the sum of ——— dollars (\$——), and that there remains unpaid on the same the sum of ——— dollars (\$——) and no more, with interest as follows: ———.

Said party of the second part hereby promises and agrees to assume and pay said sum of ——— dollars (\$——) and to perform all the other conditions and things required by said contract to be performed by said party of the first part and to save said party of the first part harmless therefrom.

Said party of the first part further authorizes and empowers the said party of the second part, upon his performance of said covenants and conditions, to demand and receive of the said E. F. the deed covenanted in said contract to be given, in the same manner to all intents and purposes as said party of the first part might or could do were these presents not executed.

In witness whereof, etc.

For form of land contract, see § 3922.

§ 3789. Assignment of literary work before copyright.

In consideration of the sum of ——— dollars (\$——), received to my full satisfaction of C. D., of ———, I hereby sell, assign, transfer and set over unto the said C. D. the manuscript of a certain literary work, on the subject of ———, of which I am the author and proprietor, entitled ———, together with all my literary property, right, title and interest in and to said literary work, and all the profit, benefit and advantage to be derived from printing, publishing and vending the same, hereby granting unto the said C. D., his administrators, executors and assigns, full power and authority to enter said literary work for copyright (and to apply for and receive the renewal and extension of said copyright), under the provisions of the laws of the United States.

In witness whereof, etc.

For form of sale of manuscript, etc., see § 3890.

For form of contract for publication on royalty basis, see § 3891.

§ 3790. Assignment of copyright.

In consideration of the sum of ——— dollars (\$——), received to my full satisfaction of C. D., of ———, I hereby bargain, sell, assign, transfer and set over unto the said C. D., his executors, administrators and assigns, the entire copyright heretofore taken out by me for the book entitled ———, of which I am the author and proprietor, and all my literary property, right, title, interest, claim and demand whatsoever of, in and to said book and to said copyright and all the profit, benefit and advantage to be derived from printing, publishing and vending the same, for the entire period for which said

copyright was issued (and for any renewal thereof, with full power and authority to apply for and receive the renewal and extension thereof).

In witness whereof, etc.

This assignment must be recorded in compliance with the provisions of the United States statute. See 35 Stats. at L. (Act March 4, 1909), 1075 (1084), c. 320, § 44.

See references under § 3789.

For failure of consideration in assignment of patents, see § 2993.

§ 3791. Assignment of stock in corporation.

Know all men by these presents: That I, A. B., for value received, do hereby bargain, sell, assign and transfer to C. D., ——— shares of the stock of the ——— Company, standing in my name on the books of said company; and I do hereby constitute and appoint said C. D. my true and lawful attorney, irrevocable, for me, and in my name, place and stead, to sell, assign, transfer and set over, all or any part of said stock, and for that purpose to make and execute all necessary acts of assignment and transfer, and one or more persons to substitute, with like full power, hereby ratifying and confirming all that my said attorney, or his substitute or substitutes, shall lawfully do, or cause to be done, by virtue hereof.

In witness whereof, etc.

A. B.

For form of contract for stock subscription, etc., see §§ 3840 et seq.

§ 3792. Assignment of stock in corporation—Endorsed on certificate.

For value received, ——— hereby sell, assign and transfer unto ———, the shares of capital stock represented by the within certificate, and do hereby irrevocably constitute and appoint ———, attorney to transfer the same on the books of the within-named corporation, with full power of substitution and revocation.

Dated, ———, 19—.

In presence of ———.

See references under § 3791.

§ 3793. Assignment of mortgage and note.

Know all men by these presents: That I, A. B., of ———, for the consideration of ——— dollars (\$——), received to my full satisfaction of C. D., do hereby sell, assign, transfer and set over unto the said C. D., his executors, administrators and assigns, a certain mortgage deed bearing date the ——— day of ———, 19—, executed and delivered to me by E. F. and recorded in volume ———, page ———, of County records on the ——— day of ———, 19—, at ——— o'clock, ——— M., together with the promissory note [or bond] secured thereby and referred to therein; and all sums of money due and to become due thereon.

And I do covenant with the said C. D., his executors, administrators and assigns, that the sum of \$—— is owing and unpaid on said note and mortgage, and that I have good right to sell and assign the same.

In witness whereof, etc.

A. B.

In presence of ———.

In case it is desired to assign a note and mortgage as collateral security, the following clauses may be added to the foregoing form:

The condition of this assignment is such, that, whereas, the said A. B. has executed and delivered to the said C. D. his certain promissory note dated ———, 19—, for the sum of \$——, with interest at ——— per cent. per annum and due on the ——— day of ———, 19—.

Now if the said A. B. shall well and truly pay the aforesaid promissory note according to the tenor thereof to the said C. D., or his assigns, then the above assignment shall be void, otherwise to remain in full force and effect.
In witness whereof, etc.
See references under § 3791.

§ 3794. Assignment of mortgage—Endorsed on instrument.

_____, 19____.
For value received, I hereby sell, assign and transfer unto _____ the within mortgages together with the note [or bond] secured thereby.
_____.

See references under § 3791.

§ 3795. Assignment of oil and gas lease.

Whereas, the Secretary of the Interior has heretofore approved an oil and gas mining lease, dated _____, entered into by and between C. D., lessee, and A. B., lessor, conveying the following described lands in the County of _____, State of _____:

Now, therefore, for and in consideration of _____ dollars, the receipt of which is hereby acknowledged, the said C. D. hereby bargains, sells, transfers, assigns and conveys all the right, title and interest of the said lessee in and to said lease, subject to the approval of the Secretary of the Interior, to E. F., said assignment to be effective from date of approval hereof by the Secretary of the Interior.

In witness whereof, etc.

See references under § 3791.

For form of oil and gas lease, see §§ 3887, 3888.

§ 3796. Contract for assignment of oil lease.

This agreement made and entered into this _____ day of _____, by and between C. D., of _____, first party, and E. F., of _____, second party, witnesseth that:

Whereas first party is the owner of a lease for oil and gas mining purposes executed by one A. B., of _____, covering the following described land situate in _____, to-wit: [insert description of premises].

Whereas first party has this day executed and delivered to second party an assignment in quadruplicate of the above-described oil and gas mining lease on the form and according to regulations prescribed by the Secretary of the Interior, for which the second party has paid the first party the sum of _____ dollars (\$_____).

Now, therefore, in consideration of the premises and the payment of said sum of _____ dollars (\$_____), first party further agrees to execute such further assignments, instruments, affidavits and papers as are necessary to secure the approval of the Secretary of the Interior to the assignment of the above-described oil and gas mining lease to the second party.

The said lessee does furthermore covenant that said lease is valid and subsisting; and said lessee warrants the validity of said lease, his right and title thereto and his power to assign the same.

In case it shall be determined in the future that said lease is invalid, the said lessee covenants to repay to the said assignee all payments made by said assignee in consideration of said assignment; and to repay to the said assignee all the further damages which the said assignee may sustain by reason of the invalidity of said lease.

In witness whereof, etc.

Even without an express covenant warranting the validity of the lease which was assigned, it has been held that such contract will be construed as implying a warranty. *Kokomo Oil Co. v. Bell*, — Okla. —, 198 Pac. 326.
See references under § 3795.

§ 3797. Assignment of judgment.

Know all men by these presents: That whereas I, A. B., of —, did on the — day of —, 19—, by the consideration of [name of court] duly recover a judgment against E. F., of —, for the sum of — dollars and for \$— costs of suit, as will more fully appear by the record thereof in volume —, which said judgment is now in full force and effect unreversed; and wholly unpaid and unsatisfied.

Now I, the said A. B., in consideration of the sum of — dollars (\$—), received to my full satisfaction of C. D., do hereby sell, assign, transfer and set over unto the said C. D., his executors, administrators or assigns, the said judgment.

And I hereby covenant that there is now due on said judgment the sum of — dollars (\$—) with interest thereon from the — day of —, 19—.

In witness whereof, etc.

See references under § 3785.

A covenant for repayment to the purchaser in case the judgment is thereafter vacated, set aside or reversed, is sometimes inserted.

The cause of action does not pass by the assignment of a judgment which is subsequently vacated. See § 2268.

For the execution of such an assignment, see § 2291.

§ 3798. Assignment of undivided interest in judgment to attorney.

This contract made this — day of —, 19—, by and between A. B., of —, and C. D., of —, WITNESSES:

Whereas A. B. has heretofore retained C. D. as his attorney at law to prosecute an action on behalf of said A. B., against one E. F., of —; and whereas said C. D. as attorney for said A. B., and in reliance upon the covenants of said A. B., hereinafter contained, has instituted an action upon said claim which is now pending in the — court of —, and which is action number —, upon the — docket of said court; and whereas said C. D. has agreed to continue to render necessary legal services for the said A. B. in prosecuting said action to a final judgment;

Now, therefore, in consideration of said legal services already rendered and to be rendered by said C. D. for said A. B. in said action, said A. B. hereby assigns, transfers and conveys to the said C. D. [insert fraction] of the judgment which said A. B. may recover in said action against the said E. F.

In witness whereof, etc.

For the validity of such assignments, see §§ 699 et seq.

For form of contract retaining attorney, see § 3855.

See references under § 3785.

§ 3799. Assignment of claim for unliquidated damages.

For value received, I hereby sell, assign and transfer unto C. D., all my right, title and interest in any and all sums of money which may now be due and owing to me, by reason of the facts hereinafter set forth, and all claims, demands, choses in action, and cause or causes of action of whatever kind and nature, which I have had or now have against E. F., arising and growing out of [state basis of claim].

In witness whereof, etc.

See references under § 3785.

§ 3800. Auction—Contract signed by auctioneer.

I hereby acknowledge that C. D. has been this day declared the highest bidder and purchaser of [describe the property], at the sum of ——— dollars, and that he has paid into my hands the sum of ——— dollars as a deposit, and in part payment of the purchase money; and I hereby agree that the vendor shall, in all respects, fulfill the conditions of sale.

In witness whereof, etc.

See references under § 3763.

For memorandum by auctioneer as satisfying the statute of frauds, see § 1330.

§ 3801. Auction—Contract to be signed by purchaser.

I hereby acknowledge that I have this day purchased, at public auction, all that [describe property], for the sum of ——— dollars, and have paid into the hands of X. Y. (the auctioneer) the sum of ——— dollars, as a deposit and in part payment of the purchase money; and I hereby agree to pay the remaining sum of ——— dollars unto A. B. (the vendor), at ———, on or before the ——— day of ———, 19—; and in all other respects, on my part, to fulfill the annexed conditions of sale.

In witness whereof, etc.

See references under § 3800.

§ 3802. Bill of lading—Straight bill.**THE X. Y. RAILWAY COMPANY****Straight Bill of Lading—Original—Not Negotiable.**

These Railroads do not accept for transportation Money, Gold, Silverware, Valuable Papers or Paintings nor any articles of extraordinary value unless special arrangements are made.

Shipper's No. ———.

Agent's No. ———.

Received, subject to the classification and tariffs in effect on the date of issue of this Original Bill of Lading, at ———, 19—, from A. B., the property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned and destined as indicated below, which the X. Y. Railway Company agrees to carry to its usual place of delivery at said destination, if on these roads, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier of all or any of said property over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions, whether printed or written, herein contained (including conditions on back hereof) and which are agreed to by the shipper and accepted for himself and his assigns.

Freight transported under this bill of lading, in addition to rates named from point of origin to point of destination will be subject to such charges and entitled to such privileges as are set forth in tariffs published by the X. Y. Railway Company, or by connecting lines and lawfully on file with the Interstate Commerce Commission, relating to car service, inspection, mileage on private cars, reconsigning, storage, switching, weighing or other transit or terminal privileges or requirements, which in any way increase or decrease the value of the service to the shipper.

The Rate of Freight from ——— to ——— is in Cents per 100 lbs.

IF Times 1st Class	IF 1st Class	IF 2nd Class	IF 3rd Class	IF 4th Class	IF 5th Class	IF Class A	IF Class B	IF Class C	IF Class D	IF Class E	IF Special per.....	IF Special per.....

(Mail Address—Not for purposes of Delivery.)

Consigned to C. D.

Destination _____, State of _____, County of _____,
Route _____, Car Initial _____, Car No. _____.

No. Packages	Description of Articles and Special Marks	Weight (Subject to Correction)	Class or Rate	Check Column	If charges are to be prepaid, write or stamp here, "To Be Prepaid."
					Received \$..... to apply in prepayment of the charges on the property described hereon.
					Agent or Cashier.
					Per (The signature here acknowledges only the amount prepaid.)
					Charges Advanced: \$.....

Per _____ Shipper Per _____ Agent

(This Bill of Lading is to be signed by the Shipper and Agent of the Railroad.)

CONDITIONS

Section 1. The carrier or party in possession of any of the property herein described shall be liable for any loss thereof or damage thereto, except as hereinafter provided.

No carrier or party in possession of any of the property herein described shall be liable for any loss thereof or damage thereto or delay caused by the act of God, the public enemy, quarantine, the authority of the law, or the act or default of the shipper or owner, or for differences in the weights of grain, seed, or other commodities caused by natural shrinkage or discrepancies in elevator weights. For loss, damage or delay caused by fire occurring after forty-eight hours (exclusive of legal holidays) after notice of arrival of the property at destination or at port of export (if intended for export) has been duly sent or given the carrier's liability shall be that of warehouseman only. Except in case of negligence of the carrier or party in possession (and the burden to prove freedom from such negligence shall be on the carrier or party in possession), the carrier or party in possession shall not be liable for loss, damage, or delay occurring while the property is stopped and held in transit upon request of the shipper, owner, or party entitled to make such request; or resulting from a defect or vice in the property or from riots or strikes. When in accordance with general custom, on account of the nature of the property, or when at the request of the shipper the property is transported in open cars, the carrier or party in possession (except in case of loss or damage by fire, in which case the liability shall be the same as though the property had been carried in closed cars) shall be liable only for negligence, and the burden to prove freedom from such negligence shall be on the carrier or party in possession.

Section 2. In issuing this bill of lading this Company (which word is to be understood throughout this bill of lading as meaning any person or corporation in possession of the property under the bill of lading) agrees to transport only over its own line, and except as otherwise provided by law acts only as agent with respect to the portion of the route beyond its own line.

No carrier shall be liable for loss, damage, or injury not occurring on its own road or its portion of the through route nor after said property has been delivered to the next carrier, except as such liability is or may be imposed by law, but nothing contained in this bill of lading shall be deemed to exempt the initial carrier from any such liability so imposed.

Section 3. No carrier is bound to transport said property by any particular train or vessel, or in time for any particular market, or otherwise than with reasonable despatch, unless by specific agreement indorsed hereon. Every carrier shall have the right in case of physical necessity to forward said property via any railroad or route between the point of shipment and the point of destination; but if such diversion shall be from a rail to a water route the liability of the carrier shall be the same as though the entire carriage were by rail.

The amount of any loss or damage for which any carrier is liable shall be computed on the basis of the value of the property at the place and time of shipment under this bill of lading, including the freight charges, if paid.

Except where the loss, damage, or injury complained of is due to delay or damage while being loaded or unloaded, or damage in transit by carelessness or negligence, as conditions precedent to recovery, claims must be made in writing to the originating or delivering carrier within six months after delivery of the property (or, in case of export traffic, within nine months after delivery at port of export), or, in case of failure to make delivery, then within six months (or nine months in case of export traffic) after a reasonable time for delivery has elapsed. Suits for loss, damage, or delay shall be instituted only within two years and one day after delivery of the property, or in case of failure to make delivery, then within two years and one day after a reasonable time for delivery has elapsed; provided, however, that where claims for loss, damage, or delay have been duly filed with the carrier, and such claims have not been definitely declined in writing by the carrier, before the beginning of the last six months of the two-year-and-one-day period, then suit thereon may be filed within six months from the date the claims are definitely declined in writing by the carriers, but not after. Where claims for loss, damage, or delay are not filed, or suits are not instituted thereon, in accordance with the foregoing provisions, the carrier will not be liable and such claims will not be paid.

Any carrier or party liable on account of loss of or damage to any of said property shall have the full benefit of any insurance that may have been effected upon or on account of said property, so far as this shall not avoid the policies or contracts of insurance.

Section 4. All property shall be subject to necessary cooperage and baling at owner's cost. Each carrier over whose route cotton is to be transported hereunder shall have the privilege, at its own cost and risk, of compressing the same for greater convenience in handling or forwarding, and shall not be held responsible for deviation or unavoidable delays in procuring such compression. Grain in bulk consigned to a point where there is a railroad, public, or licensed elevator, may (unless otherwise expressly noted herein, and then if it is not promptly unloaded) be there delivered and placed with other grain of the same kind and grade without respect to ownership, and if so delivered shall be subject to a lien for elevator charges in addition to all other charges hereunder.

Section 5. Property not removed by the party entitled to receive it within forty-eight hours (exclusive of legal holidays) after notice of its arrival has been duly sent or given may be kept in car, depot, or place of delivery of the carrier, or warehouse, subject to a reasonable charge for storage and to carrier's responsibility as warehouseman only, or may be, at the option of the carrier, removed to and stored in a public or licensed warehouse at the cost of the owner and there held at the owner's risk and without liability on the part of the carrier, and subject to a lien for all freight and other lawful charges, including a reasonable charge for storage.

The carrier may make a reasonable charge for the detention of any vessel or car, or for the use of tracks after the car has been held forty-eight hours (exclusive of legal holidays), for loading or unloading, and may add such charge to all other charges hereunder and hold such property subject to a lien therefor. Nothing in this section shall be construed as lessening the time allowed by law or as setting aside any local rule affecting car service or storage.

Property destined to or taken from a station, wharf, or landing at which there is no regularly appointed agent shall be entirely at risk of owner after unloaded from cars or vessels or until loaded into cars or vessels, and when received from or delivered on private or other sidings, wharves, or landings shall be at owner's risk until the cars are attached to and after they are detached from trains.

Section 6. No carrier will carry or be liable in any way for any documents, specie, or for any articles of extraordinary value not specifically rated in the published classification or tariff, unless a special agreement to do so and a stipulated value of the articles are endorsed hereon.

Section 7. Every party, whether principal or agent, shipping explosive or dangerous goods, without previous full written disclosure to the carrier of their nature, shall be liable for all loss or damage caused thereby, and such goods may be warehoused at owner's risk and expense or destroyed without compensation.

Section 8. The owner or consignee shall pay the freight and all other lawful charges accruing on said property, and, if required, shall pay the same before delivery. If upon inspection it is ascertained that the articles shipped are not those described in this bill of lading, the freight charges must be paid upon the articles actually shipped.

Section 9. Except in case of diversion from rail to water route, which is provided for in Section 3 hereof, if all or any part of said property is carried by water over any part of said route, such water carriage shall be performed subject to the liability, limitation, and exemption provided by statute and to the conditions contained in this bill of lading not inconsistent with such statutes or this section, and subject also to the condition that no carrier or party in possession shall be liable for any loss or damage resulting from the perils of the lakes, sea, or other waters, or from explosion, bursting of boilers, breakage of shafts, or any latent defect in hull, machinery, or appurtenances, or from collision, stranding, or other accidents of navigation, or from prolongation of the voyage. And any vessel carrying any or all of the property herein described shall have the liberty to call at intermediate ports, to tow and be towed, and assist vessels in distress, and to deviate for the purpose of saving life or property.

The term "water carriage" in this section shall not be construed as including lighterage across rivers or in lake or other harbors, and the liability for such lighterage shall be governed by the other sections of this instrument.

Section 10. Any alteration, addition, or erasure in this bill of lading, which shall be made without an endorsement thereof hereon, signed by the agent of the carrier issuing this bill of lading, shall be without effect, and this bill of lading shall be enforceable according to its original tenor.

For the validity of provisions requiring notice as a condition precedent, see §§ 735 et seq., 2610 et seq.

For the validity of provisions limiting the time for bringing action, see §§ 732 et seq.

For the validity of provisions forbidding action for a certain time after loss, see § 739.

For the validity of provisions relieving a carrier from liability for negligence, see §§ 740 et seq., 1037.

For breach of contract by carrier, see § 2934.

For precedent covenants, see § 2956.

§ 3803. Bill of lading—Order bill.

THE X. Y. RAILWAY COMPANY

Order Bill of Lading—Original.

This Company does not accept for transportation Money, Gold, Silverware, Valuable Papers or Paintings nor any articles of extraordinary value unless special arrangements are made.

Shipper's No. ———.

Agent's No. ———.

Received, subject to the classification and tariffs in effect on the date of issue of this Original Bill of Lading, at ———, 19—, from A. B., the property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned and destined as indicated below, which the X. Y. Railway Company agrees to carry to its usual place of delivery at said destination, if on its road, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier of all or any of said property over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions, whether printed or written, herein contained (including conditions on back hereof) and which are agreed to by the shipper and accepted for himself and his assigns.

Freight transported under this bill of lading, in addition to rates named from point of origin to point of destination will be subject to such charges and entitled to such privileges as are set forth in tariffs published by the X. Y. Railway Company, or by connecting lines and lawfully on file with the Inter-

state Commerce Commission, relating to car service, inspection, mileage on private cars, reconsigning, storage, switching, weighing or other transit or terminal privileges or requirements, which in any way increase or decrease the value of the service to the shipper.

The surrender of this Original Order Bill of Lading properly endorsed shall be required before the delivery of the property. Inspection of property covered by this bill of lading will not be permitted unless provided by law or unless permission is endorsed on this original bill of lading or given in writing by the shipper.

The Rate of Freight from ——— to ——— is in Cents per 100 lbs.

IF..Times 1st Class	IF 1st Class	IF 2nd Class	IF 3rd Class	IF 4th Class	IF 5th Class	IF Class A	IF Class B	IF Class C	IF Class D	IF Class E	IF Special per.....	IF Special per.....

(Mall Address—Not for purposes of Delivery.)

Consigned to order of C. D.

Destination _____, State of _____, County of _____,
Notify _____,
At _____, State of _____, County of _____,
Route _____, Car Initial _____, Car No. _____.

No. Packages	Description of Articles and Special Marks	Weight (Subject to Correction)	Class or Rate	Check Column	If charges are to be prepaid, write or stamp here, "To be Prepaid."
					Received \$..... to apply in prepayment of the charges on the property described hereon.
					Agent or Cashier.
					Per (The signature here acknowledges only the amount prepaid.)
					Charges Advanced : \$.....

Per _____ Shipper

Per _____ Agent

(This Bill of Lading is to be signed by the Shipper and Agent of the X. Y. Ry. Co.)

For the conditions referred to in this bill of lading, see § 3802.
For the effect and validity of the covenants and conditions of a bill of lading, see note to § 3802.

§ 3804. Uniform express receipt.

The Company will not pay over \$50, in case of loss, or 50 cents per pound, actual weight, for any shipment in excess of 100 pounds, unless a greater value is declared and charges for such greater value paid.

THE X. Y. EXPRESS COMPANY, Incorporated

Issued at _____.

_____, 19—.

Non-negotiable Receipt.

Received from A. B., subject to the Classification and Tariffs in effect on the date hereof, _____, value herein declared by shipper to be _____ dollars. (See footnote.)

Consigned to C. D., at _____.

_____ Charges, _____ War Tax.

Which the Company agrees to carry upon the terms and conditions printed on the back hereof, to which the shipper agrees, and as evidence thereof accepts and signs this receipt.

_____ Shipper _____ For the Company

Note—The Company's charge, except upon ordinary live stock, is dependent upon the value of the property, as declared or released by the shipper. If the shipper desires to release the value to \$50 for any shipment of 100 pounds or less, or not exceeding fifty cents per pound, actual weight, for any shipment in excess of 100 pounds, the value may be released by inserting "not exceeding \$50," or "not exceeding fifty cents per pound," in which case the company's liability is limited to an amount not exceeding the value so declared or released.

Place your name and address on both inside and outside of each shipment.

TERMS AND CONDITIONS

1. The provisions of this receipt shall inure to the benefit of and be binding upon the consignor, the consignee, and all carriers handling this shipment, and shall apply to any reconsignment, or return thereof.

2. In consideration of the rate charged for carrying said property, which is dependent upon the value thereof and is based upon an agreed valuation of not exceeding fifty dollars for any shipment of 100 pounds or less, and not exceeding fifty cents per pound, actual weight, for any shipment in excess of 100 pounds, unless a greater value is declared at the time of shipment, the shipper agrees that the company shall not be liable in any event for more than fifty dollars for any shipment of 100 pounds or less, or for more than fifty cents per pound, actual weight, for any shipment weighing more than 100 pounds, unless a greater value is stated herein. Unless a greater value is declared and stated herein the shipper agrees that the value of the shipment is as last above set out and that the liability of the company shall in no event exceed such value.

3. Unless caused by its own negligence or that of its agents, the company shall not be liable for—

- a. Difference in weight or quantity caused by shrinkage, leakage, or evaporation.
- b. The death, injury, or escape of live freight.
- c. Loss of money, bullion, bonds, coupons, jewelry, precious stones, valuable papers, or other matter of extraordinary value, unless such articles are enumerated in the receipt.

4. Unless caused in whole or in part by its own negligence or that of its agents, the company shall not be liable for loss, damage, or delay caused by—

- a. The act or default of the shipper or owner.
- b. The nature of the property, or defect or inherent vice therein.
- c. Improper or insufficient packing, securing, or addressing.
- d. The Act of God, public enemies, authority of law, quarantine, riots, strikes, perils of navigation, the hazards or dangers incident to a state of war, or occurrence in customs warehouse.
- e. The examination by, or partial delivery to, the consignee of C. O. D. shipments.

f. Delivery under instructions of consignor or consignee at stations where there is no agent of the company after such shipments have been left at such stations.

5. Packages containing fragile articles or articles consisting wholly or in part of glass must be so marked and be packed so as to insure safe transportation by express with ordinary care.

6. When property is destined to a point at which no express company has an agency it should be marked with the name of the express station at which delivery will be accepted. If not so marked it will be carried to the express station nearest the destination point and arrival notice given consignee.

7. Except where the loss, damage, or injury complained of is due to delay or damage while being loaded or unloaded, or damaged in transit by carelessness or negligence, as conditions precedent to recovery, claims must be

made in writing to the originating or delivering carrier within four months after delivery of the property or, in case of failure to make delivery, then within four months after a reasonable time for delivery has elapsed; and suits for loss, damage, or delay shall be instituted only within two years and one day after delivery of the property or, in case of failure to make delivery, then within two years and one day after a reasonable time for delivery has elapsed.

8. If any C. O. D. is not paid within thirty days after notice of non-delivery has been mailed to the shipper, the company may at its option return the property to the consignor.

9. Free delivery will not be made at points where the company maintains no delivery service; at points where delivery service is maintained free, delivery will not be made at addresses beyond the established and published delivery limits.

Special Additional Provisions as to Shipments Forwarded from the United States to Places in Foreign Countries

10. If the destination specified in this receipt is in a foreign country, the property covered hereby shall, as to transit over ocean routes and by their foreign connections to such destination, be subject to all the terms and conditions of the receipts or bills of lading of ocean carriers as accepted by the company for the shipment, and of foreign carriers participating in the transportation, and as to such transit is accepted for transportation and delivery subject to the acts, ladings, laws, regulations, and customs of over-sea and foreign carriers, custodians, and governments, their employes and agents.

11. The company shall not be liable for any loss, damage, or delay to said shipments over ocean routes and their foreign connections, the destination of which is in a foreign country, occurring outside the boundaries of the United States, which may be occasioned by any such acts, ladings, laws, regulations, or customs.

12. It is hereby agreed that the property destined to such foreign countries, and assessable with foreign governmental or customs duties, taxes, or charges, may be stopped in transit at foreign ports, frontiers, or depositories, and there held pending examination, assessments, and payments, and such duties and charges when advanced by the company, shall become a lien on the property.

See references under § 3802.

§ 3805. Bond—General form.

Know all men by these presents: That we, A. B., of the City of —, State of —, and E. F., of the City of —, State of —, are held and firmly bound unto C. D., of the City of —, State of —, in the sum of — dollars, to be paid to the said —, his executors, administrators or assigns, for the payment whereof well and truly to be made we jointly and severally bind ourselves, our heirs, executors and administrators, firmly by these presents.

Signed by us this — day of —, A. D. nineteen hundred and —.

The condition of the above obligation is such that [insert as conditions the performance to secure which the bond is given], then this obligation shall be void; otherwise it shall be and remain in full force and effect.

In witness whereof, etc.

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§ 3806. Bond for payment of money—General form.

Know all men by these presents: That I, A. B., of —, am held and firmly bound unto C. D., of —, or order (or, "or bearer") in the sum of [here insert the penal sum, usually double the amount actually to be paid] — dollars (\$—), to be paid to the said C. D. or order (or, "or bearer") for which payment well and truly to be made, I do bind myself firmly by these presents.

Dated at —, this — day of —, 19—.

The condition of this obligation is such, that if the said A. B. shall well and truly pay, or cause to be paid, unto the said C. D. or order (or, "bearer") the

sum of [here insert the amount actually to be paid] ——— dollars (\$——) with interest at the rate of ——— per cent. per annum, on the ——— day of ———, 19——, then this obligation to be void; otherwise to remain in full force and effect.

In witness whereof, etc.

§ 3807. Bond—Corporation, for money only—Secured by mortgage—Option to pay before maturity.

UNITED STATES OF AMERICA

State of ———.

No. ———.

\$——.

——— per cent. first mortgage gold bond.

Loan of ———, secured by mortgage.

The A. B. Company, of ———, acknowledges itself indebted to the C. D. Trust Company, Trustee, or to the bearer hereof, in the sum of ——— dollars, gold coin of the United States of America, which sum it promises to pay to the said the C. D. Trust Company, Trustee, or the bearer hereof, on the delivery and surrender hereof, on the ——— day of ———, A. D. 19——, at the office of the C. D. Trust Company, in the City of ———, with interest thereon from the ——— day of ———, A. D. 19——, at the rate of ——— per centum, per annum, payable ——— at the said office on the ——— day of the months of ——— in each year, in like gold coin of the United States of America, on the presentation and surrender at the office of and to the said the C. D. Trust Company of the annexed coupons as they shall severally become due and payable under the terms hereof.

This bond is one of a series amounting in the aggregate to ——— dollars, consisting of ——— bonds for ——— dollars each, numbered from ——— to ———, both inclusive, and all of which are of like tenor and date and the payment of which is secured by a duly recorded mortgage bearing date the ——— day of ———, A. D. 19——, duly executed and delivered by the A. B. Company to said the C. D. Trust Company, Trustee, upon all of the corporate property, rights, franchises and privileges therein described and recorded in ———.

Said the A. B. Company may, at its option, on the ——— day of ———, 19——, or at any half-yearly interest period thereafter prior to ———, 19——, pay the full amount of the principal of this bond in the manner set forth in the mortgage herein mentioned and thereupon (all interest hereon to the date of such payment having been fully paid) this bond shall become satisfied and discharged and all liability for further interest thereon shall cease; provided, that said the A. B. Company shall pay, in addition to the principal and accrued interest upon this bond, a premium of ——— per centum upon the principal thereof.

This bond shall pass by delivery unless registered, and, if registered, by transfer on the books of said Trustee, but shall not become obligatory until it shall have been authenticated by a certificate endorsed hereon, and duly signed for or by the Trustee. After registration no transfer except upon the books of said Trustee shall be valid unless the last transfer shall have been to bearer, which shall restore transferability by delivery; but this bond shall continue subject to successive registrations and transfers to a person specified, or to bearer as aforesaid, at the option of the holder hereof.

The holder of this bond shall not have the right to levy upon or cause said mortgaged premises to be sold under or by virtue of any judgment that may be obtained by reason of default in the payment of the principal hereof, or of the

interest hereon, when and as the same shall become due by lapse of time or in pursuance of any of the provisions of said mortgage; but such proceedings shall only be had by the Trustee under the mortgage as aforesaid on behalf of and for the equal benefit of all the holders of said bonds, or upon the demand in writing of the holders of not less than a majority in amount of said bonds then outstanding and unpaid, as is provided in the said mortgage, for which provision and for all other the terms and conditions upon which this bond is made and issued, and all other the provisions therein contained for the security of the same, reference is hereby made to said mortgage. And the lien of any judgment that may be obtained upon this bond for any of the reasons aforesaid or any reason whatsoever, and any process, or writ of execution whatsoever, issued upon said judgment; or levy or sale made under such writ or process shall be limited and restricted to said mortgaged premises and no process, attachment, sequestration, or writ of execution whatsoever shall be issued upon said judgment against any other property, real, or personal or mixed, whatsoever or wherever, of said the A. B. Company, its successors or assigns, any provision in the said mortgage or anything in the laws of ———, or any law, usage or custom to the contrary notwithstanding.

In witness whereof, etc.

This form, with its provision for redemption at will, restrictions on right to bring an action on default, and provision against personal liability of the mortgagor affords the maximum of protection to the mortgagor and the minimum of protection to the mortgagees.

See references under § 3764.

§ 3808. Coupon to foregoing bond.

No. ———.

\$ ———.

On the ——— day of ———, the A. B. Company will pay to bearer at the office of the C. D. Company, in the City of ———, ———, ——— dollars in gold coin, being ——— months' interest on its first mortgage bond No. ———.

See references under § 3764.

Treasurer.

§ 3809. Trustee's certificate to foregoing bond.

The C. D. Trust Company hereby certifies that the within bond is one of the series and issues described in the mortgage therein mentioned.

The C. D. Trust Company,

By ———.

§ 3810. Bond to secure payment of annuity.

Know all men by these presents: That we, A. B., of ———, ———, as principal, and X. Y., of ———, ———, as surety, are held and firmly bound unto C. D., of ——— in the sum of ——— dollars, to be paid to the said C. D., his heirs, executors, administrators or assigns, to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, firmly by these presents.

The condition of this obligation is such, that whereas the said A. B. has, by an instrument in writing of even date herewith, promised and agreed to pay unto the said C. D., in each and every month during the lifetime of said E. F., the sum of ——— dollars (\$ ———) in monthly payments to begin on the ——— day of ———, A. D. 19—, and subsequent payments to be made monthly thereafter so long as the said C. D. shall live, the last payment to be such pro rata amount as shall have accrued to the time of the death of said E. F. from the

time of payment next preceding, and to be paid to said E. F., his administrators, executors or assigns:

Now if the said A. B., his heirs, executors or administrators, shall well and truly pay, or cause to be paid, all of said amounts at the time the same become due and payable, then the foregoing obligation shall be void; otherwise the same shall remain in full force and effect.

In witness whereof, etc.

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For form of contract for annuity, see § 3774.

§ 3811. Bond—Standard form of the American Institute of Architects for performance of building contract.¹

Know all men: That we, —— [here insert the name and address or legal title of the Contractor], hereinafter called the Principal, and —— [here insert the name and address or legal title of one or more sureties], and ——, and ——, hereinafter called the Surety or Sureties, are held and firmly bound unto —— [here insert the name and address or legal title of the Owner], hereinafter called the Owner, in the sum of —— (\$——) for the payment whereof the Principal and the Surety or Sureties bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly, by these presents.

Whereas the Principal has, by means of a written Agreement, dated ——, entered into a contract with the Owner for ——, a copy of which Agreement is by reference made a part hereof;

Now, therefore, the Condition of this Obligation is such that if the Principal shall faithfully perform the Contract on his part, and satisfy all claims and demands, incurred for the same, and shall fully indemnify and save harmless the Owner from all cost and damage which he may suffer by reason of failure so to do, and shall fully reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any such default, and shall pay all persons who have contracts directly with the Principal for labor or materials, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Provided, however, that no suit, action or proceeding by reason of any default whatever shall be brought on this Bond after —— months from the day on which the final payment under the Contract falls due.

And provided, that any alterations which may be made in the terms of the Contract, or in the work to be done under it, or the giving by the Owner of any extension of time for the performance of the Contract, or any other forbearance on the part of either the Owner or the Principal to the other shall not in any way release the Principal and the Surety or Sureties, or either or any of them, their heirs, executors, administrators, successors or assigns from their liability hereunder, notice to the Surety or Sureties of any such alteration, extension or forbearance being hereby waived.

¹ The standard form of bond for use in connection with the third edition of the standard form of agreement and general conditions of the contract. This form has been approved by the National Association of Builders' Exchanges, the National Association of Master Plumbers, the National Association of Sheet Metal Contractors of the United States, the National Electrical Contractors' Association of the United States, the National Association of Marble Dealers, and the Heating and Piping Contractors' National Association. Copyright 1916, the American Institute of Architects, the Octagon, Washington, D. C.

Signed and sealed this — day of —, 19—.
In presence of

.....	}	as to	.....[Seal]
.....		
.....	}	as to	.....[Seal]
.....		
.....	}	as to	.....[Seal]
.....		
.....	}	as to	.....[Seal]
.....		

For form of building and construction contracts, see §§ 3821 et seq.

§ 3812. Bond to secure performance of contract for public improvement.

Know all men by these presents: That A. B., as principal, hereinafter referred to as the Contractor, and we, C. D. and E. F., as sureties and hereinafter referred to as the Surety, are held and firmly bound unto the City of X in the sum of — dollars to be paid on demand to the City of X, its successors or assigns, for which payment, well and truly to be made, the undersigned bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Signed and sealed by us this — day of — in the year of our Lord, nineteen hundred and —.

The conditions of the above obligations are such that:

Whereas the said Contractor has on this — day of —, 19—, entered into a contract with said City for the improvement of —, between — and —, in the manner set forth in the foregoing contract, which contract is made a part of this bond the same as though fully set forth herein;

Now, therefore, if the said Contractor shall honestly and faithfully commence, proceed with, perform, and complete all and singular the terms and obligations of said contract and specifications and furnish the materials in accordance with the terms of said contract as it now is and as it may at any time hereafter be changed by any and all modifications or alterations; and shall hold said City harmless from any and all loss or damage in any manner resulting from any failure of the Contractor to comply with said contract and specifications, or resulting in any way from the performance thereof; and shall further protect and defend said City against and hold said City harmless from any and all claims of any kind that may be filed or asserted against said City at any time, for the use of any patented articles or for the infringement of any patents, and shall further pay all lawful claims of subcontractors, material men and laborers, for labor performed and material furnished in the carrying forward, performing or completing of said contract; we the undersigned agreeing and assenting that this understanding shall be for the benefit of any subcontractor, material man or laborer having a just claim, as well as for the obligee herein; then this obligation shall be void; otherwise the same shall remain in full force and effect; it being expressly understood and agreed that the liability of the surety for any and all claims hereunder shall in no event exceed the penal amount of this obligation as herein stated.

The said surety hereby stipulates and agrees that no modifications, omissions or additions in or to the terms of said contract or in or to the plans or specifications thereof shall in anywise affect the obligations of said surety on its bond.

In witness whereof, etc.

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For forms of contracts for public improvements, see §§ 3821 to 3833.

§ 3813. Bond—Indemnity.

Know all men by these presents: That we, A. B. of the City of ———, State of ———, and E. F., of the City of ———, State of ———, are held and firmly bound unto C. D., of the City of ———, State of ———, in the sum of ——— dollars, to the payment of which sum, well and truly to be made, we do hereby jointly and severally bind ourselves, our heirs, executors and administrators.

Signed by us and dated this ——— day of ———, A. D. 19—.

The condition of the above obligation is such, that, whereas, ——— [insert as condition the liability as indemnity against which the bond is given].

Now, if the said A. B. shall, in all respects, save harmless and keep indemnified the said C. D. from all losses, costs, attorney and counsel fees, damages and expenses which he may sustain, pay or be put to on account of ——— [insert general statement of liability as indemnity against which the bond is given], then this obligation to be void; otherwise to remain in full force and virtue in law.

In witness whereof, etc.

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§ 3814. Bond to retiring partner, to pay debts of late firm.

Know all men by these presents: That we, A. B., of ———, ———, as principal, and E. F., of ———, ———, and G. H., of ———, ———, as sureties, are held and firmly bound unto C. D., of ———, ———, in the sum of ——— dollars (\$——), for which payment well and truly to be made we do jointly and severally bind ourselves firmly by these presents.

The condition of this obligation is such, that, whereas, the late firm of A. B. & Company, composed of said A. B. and C. D., has this day been dissolved by mutual agreement whereby the said C. D. has retired from said firm, and has conveyed all his interest in its assets and property to said A. B., who intends to continue the business alone; and whereas, the said A. B., as part of the consideration of said agreement of dissolution, has agreed to pay all the debts and liabilities of said late firm of A. B. & Company. Now if the said A. B. shall pay all of the just debts and liabilities of said late firm of A. B. & Company, and shall hold the said C. D. harmless from any liability by reason of any debts or obligations of the said late firm of A. B. & Company, then this obligation shall be void; otherwise to be and remain in full force and effect.

In witness whereof, etc.

For forms of contracts of dissolution, see §§ 3777 to 3783.

§ 3815. Bond to protect maker on paying lost note.

Know all men by these presents: That we, A. B. as principal and E. F. as surety, are held and firmly bound unto C. D. in the sum of _____ dollars (\$_____), for which payment well and truly to be made we bind ourselves firmly by these presents.

Dated this _____ day of _____, 19—.

The condition of this obligation is such, that, whereas a promissory note for _____ dollars (\$_____) made by said C. D., dated _____, 19—, and payable _____ after date, to the order of _____, at _____, the same now being the property of the said A. B., has been lost and can not be found or produced by the said A. B.; and whereas at the request of said A. B. and on his promise to save harmless the said C. D. in the premises, and to deliver up the said note for cancellation, when the same is found, to the said C. D., the said C. D. has this day paid unto the said A. B. the sum of _____ dollars (\$_____), the receipt of which is hereby acknowledged, in full payment and satisfaction of said note. Now if the said A. B. and E. F. shall assume and pay all damages, judgments, costs, expenses and charges, including reasonable attorney's fees in defending all suits and actions, whether groundless or not, which the said C. D. may be compelled to pay, or incur or become liable for, by reason of said note, and if the said A. B. shall deliver to the said C. D. said note, as soon as the same shall be found, for cancellation, then this obligation to be void; otherwise to be and remain in full force and effect.

In witness whereof, etc.

For rights of holder in due course, see §§ 2354 et seq.

§ 3816. Bond to protect corporation issuing new certificate of stock in lieu of lost or destroyed certificate.

Know all men by these presents: That we, A. B. as principal and E. F. as surety, are held and firmly bound unto the C. D. Company in the sum of _____ dollars (\$_____), for which payment well and truly to be made we bind ourselves firmly by these presents.

Dated this _____ day of _____, 19—.

The condition of this obligation is such, that, whereas, a certificate for _____ shares of the capital stock of said the C. D. Company, being certificate number _____, owned by and standing on the books of said corporation in the name of said A. B., has been lost or destroyed, and can not be produced by him; and whereas, at his request, and upon his promise to indemnify and save harmless said the C. D. Company in the premises and to surrender said certificate when found to said the C. D. Company, to be cancelled, said the C. D. Company has this day issued to said A. B. a new certificate for _____ shares in lieu of said certificate so lost or destroyed:

Now if said A. B. shall well and truly indemnify and save harmless said the C. D. Company, its successors and assigns, from and against said certificate of stock and from and against any and all damages, costs, charges and expenses, including attorney's fees, and all actions and suits, whether groundless or otherwise, by reason of said certificate of stock, and shall surrender or deliver the same, as soon as the same shall be found, to be cancelled, then this obligation shall be void; otherwise to remain in full force and effect.

In witness whereof, etc.

For effect of loss, see § 2342.

§ 3817. Bond to secure payments by purchaser under contract of sale.

Know all men by these presents: That we, A. B., of ———, as principal, and E. F., of ———, as surety, are held and firmly bound unto C. D., of ——— in the sum of ——— [here insert penal sum] dollars (\$———), for which payment well and truly to be made we do bind ourselves firmly by these presents.

Dated this ——— day of ———, 19—.

The condition of this obligation is such, that, whereas the said A. B. has entered into the contract, hereto annexed, to purchase from the said C. D. the ——— [insert general character of property] mentioned therein, to-wit: [describe subject matter of sale].

Now, if the said A. B. shall pay all the sums of money to be paid by him as provided in said contract of purchase, promptly, when the same become due, and shall well and faithfully perform and discharge all the agreements and obligations on his part to be performed under said contract, then this obligation to be void; otherwise to remain in full force and effect.

Provided, that any forbearance on the part of the said C. D. toward the said A. B. in respect to his neglect or failure to perform any or all of the said agreements and obligations on his part to be performed, or the extension or extensions, by the said C. D. of the time or times of any or all of said payments, shall not in any manner operate to release or discharge the said E. F. from his liability under the above obligation.

In witness whereof, etc.

For forms of contracts for sale of property, see §§ 3917 to 3922.
For forms of guarantees, see §§ 3864 to 3869.

§ 3818. Bond to protect purchaser of real estate against incumbrances.

Know all men by these presents: That we, A. B. as principal and E. F. as surety, are held and firmly bound unto C. D. in the sum of ——— dollars (\$———), for which payment well and truly to be made we bind ourselves firmly by these presents.

Dated this ——— day of ———, 19—.

The condition of this obligation is such, that, whereas the said A. B. has agreed to sell and convey unto C. D. by good and sufficient deed free and clear from all incumbrances whatsoever, the following described property, to-wit: ——— [description of property]; and whereas a mortgage dated ———, and recorded in volume ——— of mortgages, page ———, in the office of the recorder of ——— county, ———, given by ——— to ——— to secure the sum of ——— dollars, has never been satisfied of record, although it is claimed that the same has been paid and satisfied in full; the said ——— [name of mortgagee] having since died, being at the time of his death a resident of the State of ———, and there being no person who can now execute a proper satisfaction of said mortgage; and whereas the said C. D. has refused to consummate said transaction or to pay the purchase money for said premises unless he be protected by a proper bond against said mortgage.

Now if the said A. B. shall at all times hereafter indemnify and save harmless the above-described premises against and from said mortgage and from all actions, suits, charges, costs, expenses and attorney fees by reason thereof then this obligation shall be void; otherwise to be and remain in full force and effect.

In witness whereof, etc.

See references under § 3817.
For form of contract for sale of realty, see § 3922.

§ 3819. Bond for support of obligees.

Know all men by these presents: That we, A. B. as principal and E. F. and G. H. as sureties, are held and firmly bound unto C. D. and J. D. his wife, in the sum of _____ dollars (\$_____), for which payment well and truly to be made we do bind ourselves jointly and severally by these presents.

Dated this _____ day of _____, 19—.

The condition of this obligation is such, that, in consideration of _____ [insert consideration] such as the conveyance of a certain farm situated in _____ County, _____, and described as follows: _____ [insert description], the said A. B. has agreed to support the said C. D. and J. D. and the survivor of them, during the term of their natural lives. Now, if the said A. B. shall furnish the said C. D. and J. D. with comfortable rooms, food, clothing, medicines and medical attendance in sickness, and shall pay to the said C. D. the sum of _____ dollars (\$_____) each year, and shall well and sufficiently provide for both C. D. and J. D. the necessities and comforts of life, suitable for persons of their age and situation in life, then this obligation to be void; otherwise to remain in full force and effect.

In witness whereof, etc.

See references under § 3817.

For form of contract for support, see § 3926.

§ 3820. Bond for fidelity of employe—Bonding company as surety.

Amount \$_____.

Annual Premium \$_____.

Whereas, C. D., of _____, _____, hereinafter called the "employe," has been appointed to the office or position of A. B. in the service of _____, hereinafter called the "employer," and has been required to furnish a bond for his honesty in the performance of his duties in the said office or position; and whereas the "employer" has made and delivered to the X. Y. Surety Company, a corporation duly organized and existing under and by virtue of the laws of Ohio, with its principal office in the City of _____, _____, hereinafter called the "company," a statement in writing setting forth the nature and character of the office or position to which employe has been appointed or elected, the nature and character of his duties and responsibilities, and the checks and safeguards to be used upon the employe in the discharge of the duties of said office or position, and other matters, which said statement is made a part hereof.

Now, therefore, in consideration of the sum of _____ dollars (\$_____) paid as a premium for the period from _____, 19—, to _____, 19—, at 12 o'clock noon, and upon the faith of the said statement of the employer, which the employer hereby warrants to be true, it is hereby agreed and declared, that, subject to the provisions and conditions herein contained, which shall be conditions precedent to the right on the part of the employer to recover under this bond, the company shall, within three months after notice, accompanied by satisfactory proof of a loss as hereinafter mentioned, has been given to the company, make good and reimburse to the employer any and all pecuniary loss sustained by the employer, of money, securities or other personal property in the possession of the employe, or for the possession of which he is responsible, by any act of fraud or dishonesty, on the part of said employe in the discharge of the duties of his office or position as set forth in said employer's statement, amounting to larceny or embezzlement and which shall have been committed during the continuance of this bond or any renewal thereof, and discovered during said continuance or within six months thereafter, or within six months from the death or dismissal or retirement of the employe from the service

of the said employer. Provided always, that said company shall not be liable, by virtue of this bond, for any mere error of judgment, or injudicious exercise of discretion on the part of said employe, in and about all or any matters wherein he shall have been vested with discretion, either by instruction or rules and regulations of the said employer. And it is expressly understood and agreed that the said company shall in no way be held liable hereunder to make good any loss that may accrue to the said employer by reason of any act, or thing done, or left undone, by the said employe, in obedience to, or in pursuance of any discretion, instruction, or authorization conveyed to and received by him from said employer, or its duly authorized officer in its behalf; and it is expressly understood and agreed that the said company shall in no way be held liable hereunder, to make good any loss by robbery, or otherwise, that the said employer may sustain, except by the direct act or connivance of the said employe.

The following provisions also are to be observed and binding as a part of this bond:

The company shall be notified in writing, addressed to the president of the company at its office in the City of —, State of —, of any act of omission or of commission on the part of the employe, which may involve a loss for which the company is responsible hereunder, immediately after the occurrence of such act shall come to the knowledge of the employer. That any claim made in respect to this bond shall be in writing, addressed to the president of the company as aforesaid, immediately after the discovery of any loss for which the company is responsible hereunder, and within six months after the expiration, or cancelation, of this bond as aforesaid. And upon the making of such claim, this bond shall wholly cease and determine as regards any liability for any act, or omission of the employe, committed subsequent to the making of such claim, and it shall be surrendered to the company on payment of such claim.

The company shall not in any wise be responsible to the employer under this bond to a greater extent than — dollars (\$—).

If the employer shall at any time hold concurrently with this bond, any other bond, or guarantee of security from, or on behalf of the employe, the employer shall be entitled in the event of loss by default of the employe, to claim hereunder only such proportion of the loss as the amount covered by this bond bears to the whole amount of security carried, whether valid or not.

If the company shall so elect this bond may be cancelled at any time by giving one month's notice to the employer, and refunding the premium paid less a pro rata part thereof, for the time said bond shall have been in force, remaining liable for all or any default covered by this bond which may have been committed by the said employe, up to the date of such determination and discovered and notified to the company within the limit of time hereinbefore provided for, but in the event that the employer shall make any claim hereunder either before or after such cancellation, said pro rata part of the premium shall be forfeited and shall be returned to the company if paid by it before claim was filed.

That should the employe become guilty of an offense covered by this bond, the employer will immediately on being requested by the surety to do so, lay information before a proper officer covering the facts and verify the same as required by law and furnish the company every aid and assistance, not pecuniary, capable of being rendered by the employer, his or its agents and servants, which will aid in bringing the employe promptly to justice and such action when required of the employer shall be a condition precedent to recovery under this bond.

The company shall not be liable under this bond for the amount of any balance that may be found due the employer from the employee and which may have accrued prior to the date hereof and which may be discovered within the period hereof nor shall it be liable if, at any time during the continuance of this bond or any renewal thereof, the duties and responsibilities of the employee shall be increased and enlarged or the employee shall, without notice to the company and its written consent thereto obtained, be required or permitted to assume or discharge, either temporarily or otherwise, the duties of any other office or position than that set forth and described in said statement, it being the true intent and meaning of this bond that the company shall be responsible only as aforesaid for moneys, securities, or property diverted from the employer through fraud or dishonesty, amounting to larceny or embezzlement as aforesaid on the part of the employee within the period specified in this bond while in the discharge of the duties of the office or position to which he has been elected or appointed.

This bond will become void as to any claim for which the company is responsible hereunder to the employer, if the employer shall fail to notify the company of the occurrence of such act immediately after it shall have come to the knowledge of the employer. And if without previous notice to and consent of the company thereto the employer has entrusted or shall entrust the employee with moneys, securities, or personal property after having discovered any act of dishonesty, or condones any act for which the company may be liable hereunder, or makes any settlement with the employee for any loss hereunder this bond shall be null and void, and any wilful misstatement or suppression of facts in any claim made hereunder renders this bond void from the beginning.

No suit or action of any kind against the company for the recovery of any claim upon, under or by virtue of this bond, shall be sustainable in any court of law, or equity, unless such suit or action shall be commenced and the process served on the company within the term of ——— months (——— days) next after the presentation of such claim, and in case any suit or action shall be commenced against the company after the expiration of the said period of ——— months, the lapse of time shall be deemed as conclusive evidence against the validity of the claim thereby so attempted to be enforced.

If the employer's written statement hereinbefore referred to shall be found in any respect untrue this bond shall be void.

The company upon the execution of this bond shall not thereafter be responsible to the employer under any bond previously issued to the employer on behalf of said employee and upon the issuance of any bond subsequent hereto upon said employee in favor of said employer all responsibilities hereunder shall cease and determine, it being mutually understood that it is the intention of this provision that but one (the last) bond shall be in force at one time unless otherwise stipulated between the employer and the company.

This bond is issued on the express understanding that the employee has not within the knowledge of the employer at any former period been a defaulter and will be invalid and of no effect unless signed by the employee.

No one of the above conditions or the provisions contained in this bond shall be deemed to have been waived by or on behalf of said company unless the waiver be clearly expressed in writing over the signatures of its president and secretary and its seal thereto affixed.

And the said employee doth hereby for himself, his heirs, executors and administrators, covenant and agree to and with the said company that he will save, defend and keep harmless the said company from and against all loss and damage of whatsoever nature or kind and from all legal and other costs and expenses direct or incidental which the said company shall or may at any time

sustain or be put to (whether before or after any legal proceedings by or against it to recover under this bond, and without notice to him thereof) or for or by reason or in consequence of the said company having entered into the present bond.

In witness whereof, etc.

**§ 3821. Standard form of the American Institute of Architects
—Agreement between contractor and owner—Issued
by the American Institute of Architects for use when
a stipulated sum forms the basis of payment.¹**

This agreement made the _____ day of _____, in the year Nineteen Hundred and _____, by and between C. D., hereinafter called the Contractor, and A. B., hereinafter called the Owner,

Witnesseth, that the Contractor and the Owner for the considerations hereinafter named agree as follows:

Article 1. The Contractor agrees to provide all the materials and to perform all the work shown on the Drawings and described in the Specifications entitled _____ [here insert the caption descriptive of the work as used in the Proposal, General Conditions, Specifications, and upon the Drawings], prepared by _____, acting as, and in these Contract Documents entitled the Architect, and to do everything required by the General Conditions of the Contract, the Specifications and the Drawings.

Article 2. The Contractor agrees that the work under this Contract shall be substantially completed _____ [here insert the date or dates of completion, and stipulations as to liquidated damages, if any].

Article 3. The Owner agrees to pay the Contractor in current funds for the performance of the Contract _____ (\$_____), subject to additions and deductions as provided in the General Conditions of the Contract and to make payments on account thereof as provided therein, as follows: On or about the _____ day of each month _____ per cent. of the value, proportionate to the amount of the Contract, of labor and materials incorporated in the work _____ up to the first day of that month as estimated by the Architect, less the aggregate of previous payments. On substantial completion of the entire work, a sum sufficient to increase the total payments to _____ per cent. of the contract price, and _____ days thereafter, provided the work be fully completed and the Contract fully performed, the balance due under the Contract.

Article 4. The Contractor and the Owner agree that the General Conditions of the Contract, the specifications and the Drawings, together with this Agreement, form the Contract, and that they are as fully a part of the Contract, as if hereto attached or herein repeated; and that the following is an exact enumeration of the Specifications and Drawings: _____.

The Contractor and the Owner for themselves, their successors, executors, administrators and assigns, hereby agree to the full performance of the covenants herein contained.

In witness whereof, they have executed this agreement, the day and year first above written.

¹ The Standard Documents have received the approval of the National Association of Builders' Exchanges, the National Association of Master Plumbers, the National Association of Sheet Metal Contractors of the United States, the National Electrical Contractors' Association of the United States, the National Association of Marble Dealers, the Building Granite Quarries Association, the Building Trades Employers' Association of the City of New York, and the Heating and Piping Contractors National Association. Third edition, copyright 1915-1918, by the American Institute of Architects, The Octagon, Washington, D. C. This form is to be used only with the standard general conditions of the contract.

For general conditions, see § 3822.
 A number of different forms of building contracts are given, some in great detail and others in shorter forms. See §§ 3824 et seq.
 For extras, see §§ 1459 et seq.
 For approval of architect, engineer, etc., see §§ 2625 et seq.
 For arbitration, see §§ 721 et seq. and 2613 et seq.
 For damages, see §§ 3026, 3194, 3215 and 3216.
 For destruction of building, see § 2693.
 For performance, see §§ 2776, 2784 and 2793 et seq.
 For prevention of performance by contractor, see § 2921.
 For breach by non-performance, see § 2933.
 For precedent covenants, see § 2958.
 For instalment contracts, see § 3022.
 For acceptance of defective performance, see § 3048.
 For damages, see §§ 3215 et seq.
 For quasi-contractual rights arising on breach, see § 3252.
 For other standard forms, see §§ 3822, 3829 and 3854.

§ 3822. General conditions of contract—Standard form of the American Institute of Architects.¹

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Article 1. Principles and Definitions.—

- (a) The Contract Documents consist of the Agreement, the General Conditions of the Contract, the Drawings and Specifications, including all modifications thereof incorporated in the documents before their execution. These form the Contract.
- (b) The Owner, the Contractor and the Architect are those named as such in the Agreement. They are treated throughout the Contract Documents as if each were of the singular number and masculine gender.
- (c) The term Subcontractor, as employed herein, includes only those having a direct contract with the Contractor and it includes one who furnishes material worked to a special design according to the plans or specifications of this work, but does not include one who merely furnishes material not so worked.

¹ The Standard Documents have received the approval of the National Association of Builders' Exchanges, the National Association of Master Plumbers, the National Association of Sheet Metal Contractors of the United States, the National Electrical Contractors' Association of the United States, the National Association of Marble Dealers, the Building Granite Quarries Association, the Building Trades Employers' Association of the City of New York, and the Heating and Piping Contractors National Association. Third edition, copyright 1916-1918 by the American Institute of Architects, The Octagon, Washington, D. C.

- (d) Written notice shall be deemed to have been duly served if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered mail to the last business address known to him who gives the notice.
- (e) The term "work" of the Contractor or Subcontractor includes labor or materials or both.
- (f) All time limits stated in the Contract Documents are of the essence of the contract.
- (g) The law of the place of building shall govern the construction of this contract.

Article 2. Execution, Correlation and Intent of Documents.—The Contract Documents shall be signed in duplicate by the Owner and Contractor. In case of failure to sign the General Conditions, Drawings or Specifications the Architect shall identify them.

The Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all. The intention of the documents is to include all labor and materials reasonably necessary for the proper execution of the work. It is not intended, however, that materials or work not covered by or properly inferable from any heading, branch, class or trade of the specifications shall be supplied unless distinctly so noted on the drawings. Materials or work described in words which so applied have a well known technical or trade meaning shall be held to refer to such recognized standards.

Article 3. Detail Drawings and Instructions.—The Architect shall furnish, with reasonable promptness, additional instructions, by means of drawings or otherwise, necessary for the proper execution of the work. All such drawings and instructions shall be consistent with the Contract Documents, true developments thereof, and reasonably inferable therefrom. The work shall be executed in conformity therewith and the Contractor shall do no work without proper drawings and instructions. In giving such additional instructions, the Architect shall have authority to make minor changes in the work, not involving extra cost, and not inconsistent with the purposes of the building.

The Contractor and the Architect, if either so requests, shall jointly prepare a schedule, subject to change from time to time in accordance with the progress of the work, fixing the dates at which the various detail drawings will be required, and the Architect shall furnish them in accordance with that schedule. Under like conditions, a schedule shall be prepared, fixing the dates for the submission of shop drawings, for the beginning of manufacture and installation of materials and for the completion of the various parts of the work.

Article 4. Copies Furnished.—Unless otherwise provided in the Contract Documents the Architect will furnish to the Contractor, free of charge, all copies of drawings and specifications reasonably necessary for the execution of the work.

Article 5. Shop Drawings.—The Contractor shall submit, with such promptness as to cause no delay in his own work or in that of any other contractor, two copies of all shop or setting drawings and schedules required for the work of the various trades and the Architect shall pass upon them with reasonable promptness. The Contractor shall make any corrections required by the Architect, file with him two corrected copies and furnish such other copies as may be needed. The Architect's approval of such drawings or schedules shall not relieve the Contractor from responsibility for deviations from drawings or specifications, unless he has in writing called the Architect's attention to such deviations at the time of submission, nor shall it relieve him from responsibility for errors of any sort in shop drawings or schedules.

Article 6. Drawings and Specifications on the Work.—The Contractor shall keep one copy of all drawings and specifications on the work, in good order, available to the Architect and to his representatives.

Article 7. Ownership of Drawings and Models.—All drawings, specifications and copies thereof furnished by the Architect are his property. They are not to be used on other work and, with the exception of the signed contract set, are to be returned to him on request, at the completion of the work. All models are the property of the Owner.

Article 8. Samples.—The Contractor shall furnish for approval all samples as directed. The work shall be in accordance with approved samples.

Article 9. The Architect's Status.—The Architect shall have general supervision and direction of the work. He is the agent of the owner only to the extent provided in the Contract Documents and when in special instances he is authorized by the Owner so to act, and in such instances he shall, upon request, show the Contractor written authority. He has authority to stop the work whenever such stoppage may be necessary to insure the proper execution of the Contract.

As the Architect is, in the first instance, the interpreter of the conditions of the Contract and the judge of its performance, he shall side neither with the Owner nor with the Contractor, but shall use his powers under the contract to enforce its faithful performance by both.

In case of the termination of the employment of the Architect, the Owner shall appoint a capable and reputable Architect, whose status under the contract shall be that of the former Architect.

Article 10. The Architect's Decisions.—The Architect shall, within a reasonable time, make decisions on all claims of the Owner or Contractor and on all other matters relating to the execution and progress of the work or the interpretation of the Contract Documents.

The Architect's decisions, in matters relating to artistic effect, shall be final, if within the terms of the Contract Documents.

Except as above or as otherwise expressly provided in these General Conditions or in the specifications, all the Architect's decisions are subject to arbitration.

Article 11. Foreman, Supervision.—The Contractor shall keep on his work, during its progress, a competent foreman and any necessary assistants, all satisfactory to the Architect. The foreman shall not be changed except with the consent of the Architect, unless the foreman proves to be unsatisfactory to the Contractor and ceases to be in his employ. The foreman shall represent the Contractor in his absence and all directions given to him shall be as binding as if given to the Contractor. Important directions shall be confirmed in writing to the Contractor. Other directions shall be so confirmed on written request in each case.

The Contractor shall give efficient supervision to the work, using his best skill and attention. He shall carefully study and compare all drawings, specifications and other instructions and shall at once report to the Architect any error, inconsistency or omission which he may discover.

Article 12. Materials, Appliances, Employees.—Unless otherwise stipulated, the Contractor shall provide and pay for all materials, labor, water, tools, equipment, light and power necessary for the execution of the work.

Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of good quality. The Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

The Contractor shall not employ on the work any unfit person or anyone not skilled in the work assigned to him.

Article 13. Inspection of Work.—The Owner, the Architect and their representatives shall at all times have access to the work wherever it is in preparation or progress and the Contractor shall provide proper facilities for such access and for inspection.

If the specifications, the Architect's instructions, laws, ordinances or any public authority require any work to be specially tested or approved, the Contractor shall give the Architect timely notice of its readiness for inspection, and if the inspection is by another authority than the Architect, of the date fixed for such inspection. Inspections by the Architect shall be promptly made. If any such work should be covered up without approval or consent of the Architect, it must, if required by the Architect, be uncovered for examination at the Contractor's expense.

Re-examination of questioned work may be ordered by the Architect. If such work be found in accordance with the contract, the Owner shall pay the cost of re-examination and replacement. If such work be found not in accordance with the contract, through the fault of the Contractor, the Contractor shall pay such cost, unless he shall show that the defect in the work was caused by another contractor, and in that event the Owner shall pay such cost.

Article 14. Correction of Work Before Final Payment.—The Contractor shall promptly remove from the premises all materials condemned by the Architect as failing to conform to the Contract, whether incorporated in the work or not, and the Contractor shall promptly replace and re-execute his own work in accordance with the Contract and without expense to the Owner and shall bear the expense of making good all work of other contractors destroyed or damaged by such removal or replacement.

If the Contractor does not remove such condemned work and materials within a reasonable time, fixed by written notice, the Owner may remove them and may store the material at the expense of the Contractor. If the Contractor does not pay the expense of such removal within five days thereafter, the Owner may, upon ten days' written notice, sell such materials at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs and expenses that should have been borne by the Contractor.

Article 15. Deductions for Uncorrected Work.—If the Architect and Owner deem it inexpedient to correct work injured or done not in accordance with the Contract, the difference in value together with a fair allowance for damage shall be deducted.

Article 16. Correction of Work After Final Payment.—Neither the final certificate nor payment nor any provision in the Contract Documents shall relieve the Contractor of responsibility for faulty materials or workmanship and he shall remedy any defects due thereto and pay for any damage to other work resulting therefrom, which shall appear within a period of two years from the time of installation. The Owner shall give notice of observed defects with reasonable promptness. All questions arising under this Article shall be decided under Articles 10 and 45.

Article 17. Protection of Work and Property.—The Contractor shall continuously maintain adequate protection of all his work from damage and shall protect the Owner's property from injury arising in connection with this Contract. He shall make good any such damage or injury, except such as may be directly due to errors in the Contract Documents. He shall adequately protect adjacent property as provided by law and the Contract Documents.

Article 18. Emergencies.—In an emergency affecting the safety of life or of the structure or of adjoining property, not considered by the Contractor as within the provisions of Article 17, then the Contractor, without special instruction or authorization from the Architect or Owner, is hereby permitted to act,

at his discretion, to prevent such threatened loss or injury and he shall so act, without appeal, if so instructed or authorized. Any compensation claimed to be due to him therefor shall be determined under Articles 10 and 45 regardless of the limitations in Article 25 and in the second paragraph of Article 24.

Article 19. Contractor's Liability Insurance.—The Contractor shall maintain such insurance as will protect him from claims under workmen's compensation acts and from any other claims for damages for personal injury, including death, which may arise from operations under this contract, whether such operations be by himself or by any subcontractor or anyone directly or indirectly employed by either of them. Certificates of such insurance shall be filed with the Owner, if he so require, and shall be subject to his approval for adequacy of protection.

Article 20. Owner's Liability Insurance.—The Owner shall maintain such insurance as will protect him from his contingent liability for damages for personal injury, including death, which may arise from operations under this contract.

Article 21. Fire Insurance.—The Owner shall effect and maintain fire insurance upon the entire structure on which the work of this contract is to be done and upon all materials, in or adjacent thereto and intended for use thereon, to at least eighty per cent. of the insurable value thereof. The loss, if any, is to be made adjustable with and payable to the Owner as Trustee for whom it may concern.

All policies shall be open to inspection by the Contractor. If the Owner fails to show them on request or if he fails to effect or maintain insurance as above, the Contractor may insure his own interest and charge the cost thereof to the Owner. If the Contractor is damaged by failure of the Owner to maintain such insurance, he may recover under Art. 39.

If required in writing by any party in interest, the Owner as Trustee shall, upon the occurrence of loss, give bond for the proper performance of his duties. He shall deposit any money received from insurance in an account separate from all his other funds and he shall distribute it in accordance with such agreement as the parties in interest may reach, or under an award of arbitrators appointed, one by the Owner, another by joint action of the other parties in interest, all other procedure being in accordance with Article 45. If after loss no special agreement is made, replacement of injured work shall be ordered under Article 24.

The Trustee shall have power to adjust and settle any loss with the insurers unless one of the contractors interested shall object in writing within three working days of the occurrence of loss and thereupon arbitrators shall be chosen as above. The Trustee shall in that case make settlement with the insurers in accordance with the directions of such arbitrators, who shall also, if distribution by arbitration is required, direct such distribution.

Article 22. Guaranty Bonds.—The Owner shall have the right to require the Contractor to furnish bond covering the faithful performance of the contract and the payment of all obligations arising thereunder, in such form as the Owner may prescribe and with such sureties as he may approve. If such bond is required by instructions given previous to the receipt of bids, the premium shall be paid by the Contractor; if subsequent thereto, it shall be paid by the Owner.

Article 23. Cash Allowances.—The Contractor shall include in the contract sum all allowances named in the Contract Documents and shall cause the work so covered to be done by such contractors and for such sums as the Architect may direct, the contract sum being adjusted in conformity therewith. The Contractor declares that the contract sum includes such sums for expenses and profit on account of cash allowances as he deems proper. No demand for expenses or profit other than those included in the contract sum shall be allowed.

The Contractor shall not be required to employ for any such work persons against whom he has a reasonable objection.

Article 24. Changes in the Work.—The Owner, without invalidating the contract, may make changes by altering, adding to or deducting from the work the contract sum being adjusted accordingly. All such work shall be executed under the conditions of the original contract except that any claim for extension of time caused thereby shall be adjusted at the time of ordering such change.

Except as provided in Articles 3, 9 and 18, no change shall be made unless in pursuance of a written order from the Owner signed or countersigned by the Architect, or a written order from the Architect stating that the Owner has authorized the change, and no claim for an addition to the contract sum shall be valid unless so ordered.

The value of any such change shall be determined in one or more of the following ways:

- (a) By estimate and acceptance in a lump sum.
- (b) By unit prices named in the contract or subsequently agreed upon.
- (c) By cost and percentage or by cost and a fixed fee.
- (d) If none of the above methods is agreed upon, the Contractor, provided he receive an order as above, shall proceed with the work, no appeal to arbitration being allowed from such order to proceed.

In cases (c) and (d), the Contractor shall keep and present in such form as the Architect may direct, a correct account of the net cost of labor and materials, together with vouchers. In any case, the Architect shall certify to the amount, including a reasonable profit, due to the Contractor. Pending final determination of value, payments on account of changes shall be made on the Architect's certificate.

Article 25. Claims for Extras.—If the Contractor claims that any instructions, by drawings or otherwise, involve extra cost under this contract, he shall give the Architect written notice thereof before proceeding to execute the work and, in any event, within two weeks of receiving such instructions, and the procedure shall then be as provided in Article 24. No such claim shall be valid unless so made.

Article 26. Applications for Payments.—The Contractor shall submit to the Architect an application for each payment and, if required, receipts or other vouchers showing his payments for materials and labor, including payments to subcontractors as required by Article 44.

If payments are made on valuation of work done, such application shall be submitted at least ten days before each payment falls due, and, if required, the Contractor shall, before the first application, submit to the Architect a schedule of values of the various parts of the work, including quantities, aggregating the total sum of the contract, divided so as to facilitate payments to subcontractors in accordance with Article 44 (e), made out in such form and, if required, supported by such evidence as to its correctness, as the Architect may direct. This schedule, when approved by the Architect, shall be used as a basis for certificates of payment, unless it be found to be in error. In applying for payments, the Contractor shall submit a statement based upon this schedule and, if required, itemized in such form and supported by such evidence as the Architect may direct, showing his right to the payment claimed.

Article 27. Certificates and Payments.—If the Contractor has made application as above, the Architect shall, not later than the date when each payment falls due, issue to the Contractor a certificate for such amount as he decides to be properly due.

No certificate issued nor payment made to the Contractor, nor partial or entire use or occupancy of the work by the Owner shall be an acceptance of any work or materials not in accordance with this contract. The making and acceptance of the final payment shall constitute a waiver of all claims by the Owner, otherwise than under Articles 16 and 29 of these conditions or under requirement of the specifications, and of all claims by the Contractor, except those previously made and still unsettled.

Should the Owner fail to pay the sum named in any certificate of the Architect or in any award by arbitration, upon demand when due, the Contractor shall receive, in addition to the sum named in the certificate, interest thereon at the legal rate in force at the place of building.

Article 28. Payments Withheld.—The Architect may withhold or, on account of subsequently discovered evidence, nullify the whole or a part of any certificate for payment to such extent as may be necessary to protect the Owner from loss on account of:

- (a) Defective work not remedied.
- (b) Claims filed or reasonable evidence indicating probable filing of claims.
- (c) Failure of the Contractor to make payments properly to subcontractors or for material or labor.
- (d) A reasonable doubt that the contract can be completed for the balance then unpaid.
- (e) Damage to another contractor under Article 40.

When all the above grounds are removed certificates shall at once be issued for amounts withheld because of them.

Article 29. Liens.—Neither the final payment nor any part of the retained percentage shall become due until the Contractor, if required, shall deliver to the Owner a complete release of all liens arising out of this contract, or receipts in full in lieu thereof and, if required in either case, an affidavit that so far as he has knowledge or information the releases and receipts include all the labor and material for which a lien could be filed; but the Contractor may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the Owner, to indemnify him against any claim by lien or otherwise. If any lien or claim remain unsatisfied after all payments are made, the Contractor shall refund to the Owner all moneys that the latter may be compelled to pay in discharging such lien or claim, including all costs and a reasonable attorney's fee.

Article 30. Permits and Regulations.—The Contractor shall obtain and pay for all permits and licenses, but not permanent easements, and shall give all notices, pay all fees and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work as drawn and specified. If the Contractor observes that the drawings and specifications are at variance therewith, he shall promptly notify the Architect in writing, and any necessary changes shall be adjusted under Article 24. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the Architect, he shall bear all costs arising therefrom.

Article 31. Royalties and Patents.—The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for all such loss when the product of a particular manufacturer or manufacturers is specified, but if the Contractor has information that the article specified is an infringement of a patent he shall be responsible for such loss unless he promptly gives such information to the Architect or Owner.

Article 32. Use of Premises.—The Contractor shall confine his apparatus, the storage of materials and the operations of his workmen to limits indicated by law, ordinances, permits or directions of the Architect and shall not unreasonably encumber the premises with his materials.

The Contractor shall not load or permit any part of the structure to be loaded with a weight that will endanger its safety.

The Contractor shall enforce the Architect's instructions regarding signs, advertisements, fires and smoking.

Article 33. Cleaning Up.—The Contractor shall at all times keep the premises free from accumulations of waste material or rubbish caused by his employees or work and at the completion of the work he shall remove all his rubbish from and about the building and all his tools, scaffolding and surplus materials and shall leave his work "broom clean" or its equivalent, unless more exactly specified. In case of dispute the Owner may remove the rubbish and charge the cost to the several contractors as the Architect shall determine to be just.

Article 34. Cutting, Patching and Digging.—The Contractor shall do all cutting, fitting or patching of his work that may be required to make its several parts come together properly and fit it to receive or be received by work of other contractors shown upon, or reasonably implied by, the Drawings and Specifications for the completed structure and he shall make good after them, as the Architect may direct.

Any cost caused by defective or ill-timed work shall be borne by the party responsible therefor.

The Contractor shall not endanger any work by cutting, digging or otherwise and shall not cut or alter the work of any other contractor save with the consent of the Architect.

Article 35. Delays.—If the Contractor be delayed in the completion of the work by any act or neglect of the Owner or the Architect, or of any employee of either, or by any other contractor employed by the Owner, or by changes ordered in the work, or by strikes, lockouts, fire, unusual delay by common carriers, unavoidable casualties or any causes beyond the Contractor's control, or by delay authorized by the Architect pending arbitration, or by any cause which the Architect shall decide to justify the delay, then the time of completion shall be extended for such reasonable time as the Architect may decide.

No such extension shall be made for delay occurring more than seven days before claim therefor is made in writing to the Architect. In the case of a continuing cause of delay, only one claim is necessary.

If no schedule is made under Article 3, no claim for delay shall be allowed on account of failure to furnish drawings until two weeks after demand for such drawings and not then unless such claim be reasonable.

This article does not exclude the recovery of damages for delay by either party under Article 39 or other provisions in the Contract Documents.

Article 36. Owner's Right to Do Work.—If the Contractor should neglect to prosecute the work properly or fail to perform any provision of this contract, the Owner, after three days' written notice to the Contractor, may, without prejudice to any other remedy he may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor; provided, however, that the Architect shall approve both such action and the amount charged to the Contractor.

Article 37. Owner's Right to Terminate Contract.—If the Contractor should be adjudged a bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he should, except in cases recited in Article 35, persistently or repeatedly refuse or fail to supply enough properly skilled workmen or proper

materials, or if he should fail to make prompt payment to subcontractors or for material or labor, or persistently disregard laws, ordinances or the instructions of the Architect, or otherwise be guilty of a substantial violation of any provision of the contract, then the Owner, upon the certificate of the Architect that sufficient cause exists to justify such action, may, without prejudice to any other right or remedy and after giving the Contractor seven days' written notice, terminate the employment of the Contractor and take possession of the premises and of all materials, tools and appliances thereon and finish the work by whatever method he may deem expedient. In such case the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price shall exceed the expense of finishing the work, including compensation to the Architect for his additional services, such excess shall be paid to the Contractor. If such expense shall exceed such unpaid balance, the Contractor shall pay the difference to the Owner. The expense incurred by the Owner as herein provided, and the damage incurred through the Contractor's default, shall be certified by the Architect.

Article 38. Contractor's Right to Stop Work or Terminate Contract.—If the work should be stopped under an order of any court, or other public authority, for a period of three months, through no act or fault of the Contractor or of any one employed by him, or if the Owner should fail to pay to the Contractor, within seven days of its maturity and presentation, any sum certified by the Architect or awarded by arbitrators, then the Contractor may, upon three days' written notice to the Owner and the Architect, stop work or terminate this contract and recover from the Owner payment for all work executed and any loss sustained upon any plant or material and reasonable profit and damages.

Article 39. Damages.—If either party to this contract should suffer damage in any manner because of any wrongful act or neglect of the other party or of any one employed by him, then he shall be reimbursed by the other party for such damage.

Claims under this clause shall be made in writing to the party liable within a reasonable time of the first observance of such damage and not later than the time of final payment, except in case of claims under Article 16, and shall be adjusted by agreement or arbitration.

Article 40. Mutual Responsibility of Contractors.—Should the Contractor cause damage to any other contractor on the work, the Contractor agrees, upon due notice, to settle with such contractor by agreement or arbitration, if he will so settle. If such other contractor sues the Owner on account of any damage alleged to have been so sustained, the Owner shall notify the Contractor, who shall defend such proceedings at the Owner's expense and, if any judgment against the Owner arise therefrom, the Contractor shall pay or satisfy it and pay all costs incurred by the Owner.

Article 41. Separate Contracts.—The Owner reserves the right to let other contracts in connection with this work. The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly connect and coordinate his work with theirs.

If any part of the Contractor's work depends for proper execution or results upon the work of any other contractor, the Contractor shall inspect and promptly report to the Architect any defects in such work that render it unsuitable for such proper execution and results. His failure so to inspect and report shall constitute an acceptance of the other contractor's work as fit and proper for the reception of his work, except as to defects which may develop in the other contractor's work after the execution of his work.

To insure the proper execution of his subsequent work the Contractor shall measure work already in place and shall at once report to the Architect any discrepancy between the executed work and the drawings.

Article 42. Assignment.—Neither party to the Contract shall assign the contract without the written consent of the other, nor shall the Contractor assign any moneys due or to become due to him hereunder, without the previous written consent of the Owner.

Article 43. Subcontracts.—The Contractor shall, as soon as practicable after the signature of the contract, notify the Architect in writing of the names of subcontractors proposed for the principal parts of the work and for such others as the Architect may direct and shall not employ any that the Architect may within a reasonable time object to as incompetent or unfit.

If the Contractor has submitted before signing the contract a list of subcontractors and the change of any name on such list is required or permitted after signature of agreement, the contract price shall be increased or diminished by the difference between the two bids.

The Architect shall, on request, furnish to any subcontractor, wherever practicable, evidence of the amounts certified to on his account.

The Contractor agrees that he is as fully responsible to the Owner for the acts and omissions of his subcontractors and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

Nothing contained in the contract documents shall create any contractual relation between any subcontractor and the Owner.

Article 44. Relations of Contractor and Subcontractor.—The Contractor agrees to bind every subcontractor and every subcontractor agrees to be bound, by the terms of the General Conditions, Drawings and Specifications, as far as applicable to his work, including the following provisions of this Article, unless specifically noted to the contrary in a subcontract approved in writing as adequate by the Owner or Architect. This does not apply to minor subcontracts.

The Subcontractor agrees—

- (a) To be bound to the Contractor by the terms of the General Conditions, Drawings and Specifications and to assume toward him all the obligations and responsibilities that he, by those documents, assumes toward the Owner.
- (b) To submit to the Contractor applications for payment in such reasonable time as to enable the Contractor to apply for payment under Article 26 of the General Conditions.
- (c) To make all claims for extras, for extensions of time and for damages for delays or otherwise, to the Contractor in the manner provided in the General Conditions for like claims by the Contractor upon the Owner, except that the time for making claims for extra cost as under Article 26 of the General Conditions is one week.

The Contractor agrees—

- (d) To be bound to the Subcontractor by all the obligations that the Owner assumes to the Contractor under the General Conditions, Drawings and Specifications and by all the provisions thereof affording remedies and redress to the Contractor from the Owner.
- (e) To pay the Subcontractor, upon the issuance of certificates, if issued under the schedule of values described in Article 26 of the General Conditions, the amount allowed to the Contractor on account of the Subcontractor's work to the extent of the Subcontractor's interest therein.
- (f) To pay the Subcontractor, upon the issuance of certificates, if issued otherwise than as in (e), so that at all times his total payments shall be as

large in proportion to the value of the work done by him as the total amount certified to the Contractor is to the value of the work done by him.

- (g) To pay the Subcontractor to such extent as may be provided by the Contract Documents or the subcontract, if either of these provides for earlier or larger payments than the above.
- (h) To pay the Subcontractor on demand for his work or materials as far as executed and fixed in place, less the retained percentage, at the time the certificate should issue, even though the Architect fails to issue it for any cause not the fault of the Subcontractor.
- (j) To pay the Subcontractor a just share of any fire insurance money received by him, the Contractor, under Article 21 of the General Conditions.
- (k) To make no demand for liquidated damages or penalty for delay in any sum in excess of such amount as may be specifically named in the subcontract.
- (l) That no claim for services rendered or materials furnished by the Contractor to the Subcontractor shall be valid unless written notice thereof is given by the Contractor to the Subcontractor during the first ten days of the calendar month following that in which the claim originated.
- (m) To give the Subcontractor an opportunity to be present and to submit evidence in any arbitration involving his rights.
- (n) To name as arbitrator under Article 45 of the General Conditions the person nominated by the Subcontractor, if the sole cause of dispute is the work, materials, rights or responsibilities of the Subcontractor; or, if of the Subcontractor and any other subcontractor jointly, to name as such arbitrator the person upon whom they agree.

The Contractor and the Subcontractor agree that—

- (o) In the matter of arbitration, their rights and obligations and all procedure shall be analogous to those set forth in Article 45 of the General Conditions.

Nothing in this Article shall create any obligation on the part of the Owner to pay to or to see to the payment of any sums to any Subcontractor.

Article 45. Arbitration.—Subject to the provisions of Article 10, all questions in dispute under this contract shall be submitted to arbitration at the choice of either party to the dispute. The Contractor agrees to push the work vigorously, during arbitration proceedings.

The demand for arbitration shall be filed in writing with the Architect, in the case of an appeal from his decision, within ten days of its receipt and in any other case within a reasonable time after cause thereof and in no case later than the time of final payment, except as to questions arising under Article 16. If the Architect fails to make a decision within a reasonable time, an appeal to arbitration may be taken as if his decision had been rendered against the party appealing.

No one shall be nominated or act as an arbitrator who is in any way financially interested in this contract or in the business affairs of either the Owner, Contractor or Architect.

The general procedure shall conform to the laws of the State in which the work is to be erected. Unless otherwise provided by such laws, the parties may agree upon one arbitrator; otherwise there shall be three, one named, in writing, by each party to this contract, to the other party and to the Architect, and the third chosen by these two arbitrators, or if they fail to select a third within ten days, then he shall be chosen by the presiding officer of the Bar Association nearest to the location of the work. Should the party demanding arbitration fail to name an arbitrator within ten days of his demand, his right to arbitration

shall lapse. Should the other party fail to choose an arbitrator within said ten days, then such presiding officer shall appoint such arbitrator. Should either party refuse or neglect to supply the arbitrators with any papers or information demanded in writing, the arbitrators are empowered by both parties to proceed *ex parte*.

The arbitrators shall act with promptness. If there be one arbitrator his decision shall be binding; if three the decision of any two shall be binding. Such decision shall be a condition precedent to any right of legal action, and wherever permitted by law it may be filed in Court to carry it into effect.

The arbitrators, if they deem that the case demands it, are authorized to award to the party whose contention is sustained such sums as they shall deem proper for the time, expense and trouble incident to the appeal and, if the appeal was taken without reasonable cause, damages for delay. The arbitrators shall fix their own compensation, unless otherwise provided by agreement, and shall assess the costs and charges of the arbitration upon either or both parties.

The award of the arbitrators must be in writing and, if in writing, it shall not be open to objection on account of the form of the proceedings or the award, unless otherwise provided by the laws of the State in which the work is to be erected.

In the event of such laws providing on any matter covered by this article otherwise than as hereinbefore specified, the method of procedure throughout and the legal effect of the award shall be wholly in accordance with the said State laws, it being intended hereby to lay down a principle of action to be followed, leaving its local application to be adapted to the legal requirements of the place in which the work is to be erected.

See references under § 3821.

§ 3823. Standard form of acceptance of subcontractor's proposal

—Issued by the American Institute of Architects—

For use in connection with the third edition of the standard form of agreement and general conditions of the contract.¹

Dear Sir: Having entered into a contract with _____ [here insert the name and address or corporate title of the Owner] for the erection of _____ [here insert the kind of work and the place at which it is to be erected] in accordance with plans and specifications prepared by _____ [here insert the name and address of the Architect], and in accordance with the General Conditions of the Contract prefixed to the specifications, the undersigned hereby accepts your proposal of _____ [here insert date], to provide all the materials and do all the work of _____ [here insert the kind of work to be done, as plumbing, roofing, etc., accurately describing by number, page, etc., the drawings and specifications governing such work].

The Undersigned agrees to pay you in current funds for the faithful performance of the subcontract established by this acceptance of your proposal the sum of _____ (\$_____).

Our relations in respect of this subcontract are to be governed by the plans and specifications named above, by the General Conditions of the Contract as

¹ This form has been approved by the National Association of Builders' Exchanges, the National Association of Master Plumbers, the National Association of Sheet Metal Contractors of the United States, the National Electrical Contractors' Association of the United States, the National Association of Marble Dealers, and the Heating and Piping Contractors National Association, the Building Trades Employers' Association of the City of New York. Copyright 1915, by the American Institute of Architects, The Octagon, Washington, D. C.

far as applicable to the work thus sublet and especially by Article 44 of those conditions printed on the reverse hereof.

Very truly yours,

ARTICLE 44 OF THE GENERAL CONDITIONS OF THE CONTRACT

Relations of Contractor and Subcontractor.—The Contractor agrees to bind every Subcontractor and every Subcontractor agrees to be bound, by the terms of the General Conditions, Drawings and Specifications, as far as applicable to his work, including the following provisions of this Article, unless specifically noted to the contrary in a subcontract approved in writing as adequate by the Owner or Architect. This does not apply to minor subcontracts.

The Subcontractor agrees:

(a) To be bound to the Contractor by the terms of the General Conditions, Drawings and Specifications, and to assume toward him all the obligations and responsibilities that he, by those documents, assumes toward the Owner.

(b) To submit to the Contractor applications for payment in such reasonable time as to enable the Contractor to apply for payment under Article 26 of the General Conditions.

(c) To make all claims for extras, for extensions of time and for damages for delays or otherwise, to the Contractor in the manner provided in the General Conditions for like claims by the Contractor upon the Owner, except that the time for making claims for extra cost as under Article 25 of the General Conditions, is one week.

The Contractor agrees:

(d) To be bound to the Subcontractor by all the obligations that the Owner assumes to the Contractor under the General Conditions, Drawings and Specifications, and by all the provisions thereof affording remedies and redress to the Contractor from the Owner.

(e) To pay the Subcontractor, upon the issuance of certificates, if issued under the schedule of values described in Article 26 of the General Conditions, the amount allowed to the Contractor on account of the Subcontractor's work to the extent of the Subcontractor's interest therein.

(f) To pay the Subcontractor, upon the issuance of certificates, if issued otherwise than as in (e), so that at all times his total payments shall be as large in proportion to the value of the work done by him as the total amount certified to the Contractor is to the value of the work done by him.

(g) To pay the Subcontractor to such extent as may be provided by the Contract Documents or the subcontract, if either of these provides for earlier or larger payments than the above.

(h) To pay the Subcontractor on demand for his work or materials as far as executed and fixed in place, less the retained percentage, at the time the certificate should issue, even though the Architect fails to issue it for any cause not the fault of the Subcontractor.

(j) To pay the Subcontractor a just share of any fire insurance money received by him, the Contractor, under Article 21 of the General Conditions.

(k) To make no demand for liquidated damages or penalty for delay in any sum in excess of such amount as may be specifically named in the subcontract.

(l) That no claim for services rendered or materials furnished by the Contractor to the Subcontractor shall be valid unless written notice thereof is given by the Contractor to the Subcontractor during the first ten days of the calendar month following that in which the claim originated.

(m) To give the Subcontractor an opportunity to be present and to submit evidence in any arbitration involving his rights.

(n) To name as arbitrator under Article 45 of the General Conditions, the person nominated by the Subcontractor if the sole cause of dispute is the work, materials, rights or responsibilities of the Subcontractor; or, if of the Subcontractor and any other subcontractor jointly, to name as such arbitrator the person upon whom they agree.

The Contractor and the Subcontractor agree that—

(o) In the matter of arbitration, their rights and obligations and all procedure shall be analogous to those set forth in Article 45 of the General Conditions.

Nothing in this Article shall create any obligation on the part of the Owner to pay to or to see to the payment of any sums to any subcontractor.

The Subcontractor entering into this agreement should be sure that not merely the above Article 44, but the full text of the General Conditions of the Contract as signed by the Owner and Contractor is known to him, since such full text, though not herein repeated, is binding on him.

For Article 44, referred to in this form, see § 3822.
See references under § 3821.

§ 3824. Building contract.

This contract made this — day of —, 19—, by and between A. B., of the — State of —, party of the first part (hereinafter designated the Contractor—), and C. D., of the — State of —, party of the second part (hereinafter designated the Owner—).

Witnesses, that the Contractor—, in consideration of the agreements herein made by the Owner—, agree with the said Owner— as follows:

Article I.—The Contractor— shall and will provide all the materials and will perform all the work for the — as shown on the drawings and described in the specifications prepared by —, Architect—, which drawings and specifications are identified by the signatures of the parties hereto, and become hereby a part of this contract.

Article II.—It is understood and agreed by and between the parties hereto that the work included in this contract is to be done under the direction of the said Architect—, and that — decision as to the true construction and meaning of the drawings and specifications shall be final. It is also understood and agreed by and between the parties hereto that such additional drawings and explanations as may be necessary to detail and illustrate the work to be done are to be furnished by said Architect—, and they agree to conform to and abide by the same so far as they may be consistent with the purpose and intent of the original drawings and specifications referred to in Article I.

It is further understood and agreed by the parties hereto that any and all drawings and specifications prepared for the purposes of this contract by the said Architect— are and remain — property, and that all charges for the use of the same, and for the services of said Architect— are to be paid by the said Owner.

Article III.—No alterations shall be made in the work except upon written order of the Architect—; the amount to be paid by the Owner— or allowed by the Contractor— by virtue of such alterations to be stated in said order. Should the Owner— and Contractor— not agree as to amount to be paid or allowed, the work shall go on under the order required above, and in case of failure to agree, the determination of said amount shall be referred to arbitration, as provided for in Article XII of this contract.

Article IV.—The Contractor— shall provide sufficient, safe and proper facilities at all times for the inspection of the work by the Architect— or — authorized representatives; shall, within twenty-four hours after receiving written notice from the Architect— to that effect, proceed to remove from the grounds or buildings all materials condemned by — whether worked or unworked, and to take down all portions of the work which the Architect— shall by like written notice condemn as unsound or improper, or as in any way

failing to conform to the drawings and specifications, and shall make good all work damaged or destroyed thereby.

Article V.—Should the Contractor— at any time refuse or neglect to supply a sufficiency of properly skilled workmen, or of materials of the proper quality, or fail in any respect to prosecute the work with promptness and diligence, or fail in the performance of any of the agreements herein contained, such refusal, neglect or failure being certified by the Architect—, the Owner— shall be at liberty, after ——— days' written notice to the Contractor—, to provide any such labor or materials, and to deduct the costs thereof from any money then due or thereafter to become due to the Contractor— under this contract; and if the Architect shall certify that such refusal, neglect or failure is sufficient ground for such action, the Owner— shall also be at liberty to terminate the employment of the Contractor— for the said work and to enter upon the premises and take possession, for the purpose of completing the work included under this contract, of all materials, tools and appliances thereon, and to employ any other person or persons to finish the work, and to provide the materials therefor; and in case of such discontinuance of the employment of the Contractor— ——— shall not be entitled to receive any further payment under this contract until the said work shall be wholly finished, at which time, if the unpaid balance of the amount to be paid under this contract shall exceed the expense incurred by the Owner— in finishing the work, such excess shall be paid by the Owner— to the Contractor—; but if such expense shall exceed such unpaid balance, the Contractor— shall pay the difference to the Owner—. The expense incurred by the Owner— as herein provided, either for furnishing materials or for finishing the work, and any damage incurred through such default, shall be audited and certified by the Architect—, whose certificate thereof shall be conclusive upon such parties.

Article VI.—The Contractor— shall complete the several portions, and the whole of the work comprehended in this agreement by and at the time or times hereinafter stated, to-wit: ———.

Article VII.—Should the Contractor— be delayed in the prosecution or completion of the work by the act, neglect or default of the Owner—, of the Architect—, or of any other Contractor— employed by the Owner— upon the work, or by any damage caused by fire, or other casualty for which the Contractor— ——— not responsible, or by combined action of workmen in no wise caused by or resulting from default or collusion on the part of the Contractor—, then the time herein fixed for the completion of the work shall be extended for a period equivalent to the time lost by reason of any or all of the causes aforesaid, which extended period shall be determined and fixed by the Architect—; but no such allowance shall be made unless a claim therefor is presented in writing to the Architect— within forty-eight hours of the occurrence of such delay.

Article VIII.—The Owner— agree— to provide all labor and materials essential to the conduct of this work not included in this contract in such manner as not to delay its progress, and in the event of failure so to do, thereby causing loss to the Contractor—, agree— that ——— will reimburse the Contractor— for such loss, and the Contractor— agree— that if ——— shall delay the progress of the work so as to cause loss for which the Owner— shall become liable, then ——— shall reimburse the Owner— for such loss. Should the Owner— and Contractor— fail to agree as to the amount of loss comprehended in this Article, the determination of the amount shall be referred to arbitration as provided in Article XII of this contract.

Article IX.—It is hereby mutually agreed between the parties hereto that the sum to be paid by the Owner— to the Contractor— for said work and mate-

rials shall be ———, subject to additions and deductions as hereinbefore provided, and that such sum shall be paid by the Owner— to the Contractor—, in current funds, and only upon certificates of the Architect— as follows: ———.

The final payment shall be made within ——— days after completion and acceptance of the work included in this contract, and all payments shall be due when certificates for the same are issued.

If at any time there shall be evidence of any lien or claim for which, if established, the Owner— of the said premises might become liable, and which is chargeable to the Contractor—, the Owner— shall have the right to retain out of any payment then due or thereafter to become due an amount sufficient to completely indemnify ——— against such lien or claim. Should there prove to be any such claim after all payments are made, the Contractor— shall refund to the Owner— all moneys that the latter may be compelled to pay in discharging any lien on said premises made obligatory in consequence of the Contractor— default.

Article X.—It is further mutually agreed between the parties hereto that no certificate given or payment made under this contract, except the final certificate or final payment, shall be conclusive evidence of the performance of this contract, either wholly or in part, and that no payment shall be construed to be an acceptance of defective work or improper materials.

Article XI.—The Owner— shall, during the progress of the work, maintain insurance on the same against loss or damage by fire ———, the policies to cover all work incorporated in the building, and all materials for the same in or about the premises, and to be made payable to the parties hereto, as their interest may appear.

Article XII.—In case the Owner— and Contractor— fail to agree in relation to matters of payment, allowance or loss referred to in Articles III or VIII of this contract, or should either of them dissent from the decision of the Architect— referred to in Article VII of this contract, which dissent shall have been filed in writing with the Architect— within ten days of the announcement of such decision, then the matter shall be referred to a Board of Arbitration to consist of one person selected by the Owner—, and one person selected by the Contractor—, these two to select a third. The decision of any two of this Board shall be final and binding on both parties hereto. Each party hereto shall pay one-half of the expense of such reference.

The said parties for themselves, their heirs, successors, executors, administrators and assigns, do hereby agree to the full performance of the covenants herein contained.

In witness whereof, etc.

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See references under § 3821.

§ 3825. Building contract.

This contract entered into this ——— day of ———, A. D. 19—, by and between A. B., of the ———, of ———, and State of ———, party of the first part, and C. D., of the ——— of ———, and State of ———, of the said ———, party of the second part;

Witnesses, that the said party of the first part hereby agrees to furnish all the material and perform all the labor required as specified under the head of ———, according to the plans and specifications furnished by ———, Architect—, in the erection of a ——— situated ——— in the said ———.

All work shall be executed in a thorough, complete and most workmanlike manner and agreeable to such direction as may be given from time to time by the said Architect— and Superintendent—, to whose entire satisfaction all work must be done. If any alterations shall hereafter be made by order of the party of the second part, or by the said Architect—, varying from the plans and specifications, either by adding thereto or diminishing therefrom, such alterations shall not vacate the contract hereby entered into, but the value of them shall be ascertained by the Architect— and added to or deducted from the sum of money hereinafter mentioned, as the case may be.

If the party of the first part shall neglect or refuse to carry on the work with such dispatch as shall be thought necessary by the Superintendent— to complete the work by the time hereinafter specified, or shall neglect or refuse to furnish such materials for, or to do the work as the Superintendent— directed, it shall be lawful for the party of the second part, or Superintendent—, to employ such other person or persons as the said party of the second part shall think fit or necessary to furnish such unprovided materials, or to furnish any of the unfinished work, after having given notice in writing to the party of the first part, three days before employing such person or persons, and the bill or bills of any artificer, laborer or mechanic that may be employed, or for materials furnished, and all expenses incidental thereto, shall be deducted out of any moneys that may be due or to become due on this contract, and owing to the party of the first part, or any part thereof, as the case may be, and in case of deficiency the party of the first part shall be held liable therefor, and the Superintendent— of said work— hereby empowered to have any materials which —he— may reject, removed from the premises forthwith to secure its non-usage.

And it is further agreed between the parties aforesaid, that all payments made on the work during progress are on account of this contract, and in no case shall they be construed as an acceptance of the work and materials furnished, and that the party of the first part shall be liable to all these conditions and agreements until the work is completed and accepted as finished; and no part of the work covered by this contract is to be re-let or sub-contracted without the consent in writing of the party of the second part.

And it is further agreed by the party of the first part that the work herein specified shall be finished and ready for acceptance on the _____ day of _____, 19—.

In consideration of the faithful performance by the party of the first part as above stated, the party of the second part agrees to pay the party of the first part on certificate of Superintendent—, as follows: In all the gross sum of _____, to be paid in manner as follows, to-wit: Eighty per cent. of the proportionate value of the work done monthly, as the work progresses, on the estimates of the Superintendent—, and the remaining twenty per cent., together with all other sums, if any, due on this contract, shall be paid on the completion and acceptance of the entire work herein contracted for, as soon thereafter as the said Superintendent— and the party of the second part are satisfied that the work is completed, and are assured against the existence of any mechanics' liens or the claims and demands against the party of the first part of any sub-contractor for work performed or materials furnished for and on said building:

Provided, however, that no materials shall be estimated or paid for until actually wrought into the construction of said building.

In witness whereof, etc.

Witness: _____.

See references under § 3821.

§ 3826. Building contract.

This contract made this _____ day of _____, in the year _____, by and between A. B., of _____, party of the first part (hereinafter designated the Owner), and C. D., of _____, party of the second part (hereinafter designated the Contractor).

Witnesses that the Contractor being the party of the second part, in consideration of the covenants and agreements herein contained on the part of the Owner, being the party of the first part, does covenant, promise and agree with said Owner in the manner following:

1. The contractor shall perform and finish under the direction and to the satisfaction of E. F., Architect—, all the work and material included under the following branch headings of the specifications for a _____ to be erected,

to-wit: _____, agreeable to the drawings and specifications prepared by said Architect—, which said drawings and specifications are hereby made a part of this contract.

2. And it is hereby mutually agreed between the parties hereto that the Owner will pay to the Contractor for said work the sum of _____ (\$_____), subject to the additions or deductions on account of alterations that may be made in the said drawings or specifications; such sum shall be paid in current funds upon the certificate of the Architect—, _____ per cent. to be retained from the amount of each certificate, and to be paid within thirty days after the final completion of all work included in this contract.

3. It is further mutually agreed between the parties hereto that no certificate given or payment made under this contract shall be conclusive evidence of the performance of this contract, either wholly or in part, against any claim of the owner and no payment shall be construed to be an acceptance of any defective work or material.

4. And the said parties for themselves, their heirs, executors, administrators or assigns, do hereby agree to the full performance of the covenants, promises and agreements herein contained and do hereby bind themselves, their heirs, executors, administrators or assigns each to the other firmly by these presents.

In witness whereof, etc.

Witnesses: _____.

See references under § 3821.

§ 3827. Building contract.

This contract entered into on this _____ day of _____, 19—, by and between _____, of _____, and hereinafter designated as "First Party," and _____, of _____, hereinafter designated as "Second Party."

Witnesses that said Second Party, for and in consideration of the sum of _____, to be paid as hereinafter specified; hereby agrees to furnish unto said First Party all the labor and materials required for the _____ of a certain _____ to be erected for _____ on _____ in accordance with plans, drawings and specifications for the same as prepared and furnished by _____, which plans, drawings and specifications are hereby declared to be a part of this contract.

Said Second Party further agrees to furnish said materials and to do the said work promptly, in a workmanlike manner, without hindrance or delay to any other branch or class of work on said structure, and to work in harmony with and to render such assistance to said other branches of work as his connection therewith and the progress of said structure may require.

And said First Party, for and in consideration of the true and faithful performance of said work and furnishing of said materials as aforesaid, hereby agrees to pay unto said Second Party said sum of \$—— in instalments from time to time, upon the certificate of —— as follows: —— per cent. —— and the remainder thereof when the aforesaid materials shall all have been furnished and said labor shall have been completed and accepted.

In witness whereof, etc.

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See references under § 3821.

§ 3828. Building contract—Cost plus—Issued by the American Institute of Architects.¹

This agreement made the —— day of ——, in the year nineteen hundred and ——, by and between C. D., of the ——, State of ——, hereinafter called the Contractor, and A. B., of the ——, State of ——, hereinafter called the Owner;

Witnesseth, that whereas the Owner intends to erect ——.

Now, therefore, the Contractor and the Owner, for the considerations hereinafter named, agree as follows:

Article 1. The Work to be Done and the Documents Forming the Contract.—The Contractor agrees to provide all the labor and materials and to do all things necessary for the proper construction and completion of the work shown and described on Drawings bearing the title —— and numbered ——, and in Specifications bearing the same title, the pages of which are numbered ——. The said Drawings and Specifications and the General Conditions of the Contract consisting of Articles numbered one to —— together with this Agreement, constitute the Contract; the Drawings, Specifications and General Conditions being as fully a part thereof and hereof as if hereto attached or herein repeated. If anything in the said General Conditions is inconsistent with this Agreement, the Agreement shall govern.

The said documents have been prepared by ——, therein and hereinafter called the Architect.

Article 2. Changes in the Work.—The Owner, through the Architect, may from time to time, by written instructions or drawings issued to the Contractor, make changes in the above-named Drawings and Specifications, issue additional instructions, require additional work or direct the omission of work previously ordered, and the provisions of this contract shall apply to all such changes, modifications and additions with the same effect as if they were embodied in the original Drawings and Specifications. Since the cost of all such changes is to merge in the final cost of the work, Articles 24 and 25 of the General Conditions of the Contract are annulled, unless elsewhere especially made applicable.

Article 3. The Contractor's Duties and Status.—The Contractor recognizes the relations of trust and confidence established between him and the Owner by this Agreement. He covenants with the Owner to furnish his best skill and judgment and to co-operate with the Architect in forwarding the interests

¹ A form of agreement between contractor and owner issued by the American Institute of Architects for use when the cost of the work plus a fee forms the basis of payment. First edition, copyright 1920, by the American Institute of Architects, Washington, D. C. This form is to be used only with the Institute's standard general conditions of the contract, and it should not be used without careful study of its accompanying "Circular of Information."

of the Owner. He agrees to furnish efficient business administration and superintendence and to use every effort to keep upon the work at all times an adequate supply of workmen and materials, and to secure its execution in the best and soundest way and in the most expeditious and economical manner consistent with the interests of the Owner.

Article 4. Fee for Services.—In consideration of the performance of the contract, the Owner agrees to pay the Contractor, in current funds, as compensation for his services hereunder ——— (\$———), which shall be paid as follows:

Article 5. Costs to be Reimbursed.—The Owner agrees to reimburse the Contractor in current funds all costs necessarily incurred for the proper prosecution of the work and paid directly by the Contractor, such costs to include the following items, and to be at rates not higher than the standard paid in the locality of the work except with prior consent of the Owner:

- (a) All labor directly on the Contractor's pay roll.
- (b) Salaries of Contractor's Employees stationed at the field office, in whatever capacity employed. Employees engaged, at shops or on the road, in expediting the production or transportation of material, shall be considered as stationed at the field office and their salaries paid for such part of their time as is employed on this work.
- (c) The proportion of transportation, traveling and hotel expenses of the Contractor or of his officers or employees incurred in discharge of duties connected with this work.
- (d) All expenses incurred for transportation to and from the work of the force required for its prosecution.
- (e) Permit fees, royalties, damages for infringement of patents, and costs of defending suits therefor and for deposits lost for causes other than the Contractor's negligence.
- (f) Losses and expenses, not compensated by insurance or otherwise, sustained by the Contractor in connection with the work, provided they have resulted from causes other than the fault or neglect of the Contractor. Such losses shall include settlements made with the written consent and approval of the Owner. No such losses and expenses shall be included in the cost of the work for the purpose of determining the Contractor's fee, but if, after a loss from fire, flood or similar cause not due to the fault or neglect of the Contractor, he be put in charge of reconstruction, he shall be paid for his services a fee proportionate to that named in Article 4 hereof.
- (g) Minor expenses, such as telegrams, telephone service, expressage and similar petty cash items.
- (h) Cost of hand tools, not owned by the workmen, canvas and tarpaulins, consumed in the prosecution of the work, and depreciation on such tools, canvas and tarpaulins used but not consumed and which shall remain the property of the Contractor.

Article 6. Costs Not to be Reimbursed.—Reimbursement of expenses to the Contractor shall not include any of the following:

- (a) Salary of the Contractor, if an individual, or salary of any member of the Contractor, if a firm, or salary of any officer of the Contractor, if a corporation.
- (b) Salary of any person employed, during the execution of the work, in the main office or in any regularly established branch office of the Contractor.

- (c) Overhead or general expenses of any kind, except as these may be expressly included in Article 5.
- (d) Interest on capital employed either in plant or in expenditures on the work, except as may be expressly included in Article 5.

Article 7. Costs to be Paid Direct by the Owner.—In addition to items of cost noted in Article 5 for which the Owner reimburses the Contractor, the Owner shall pay all costs as follows:

- (a) Materials, supplies, equipment and transportation required for the proper execution of the work, which shall include all temporary structures and their maintenance; all such costs to be at rates not higher than the standard paid in the locality of the work except with prior consent of the Owner.
- (b) The amounts of all separate contracts.
- (c) Premiums on all bonds and insurance policies called for under Articles 19, 20, 21 and 22 of the General Conditions of the Contract.
- (d) Rentals of all construction plant or parts thereof, whether rented from the Contractor or others, in accordance with rental agreements approved by the Architect. Transportation of said construction plant, costs of loading and unloading, cost of installation, dismantling and removal thereof and minor repairs and replacements during its use on the work,—all in accordance with the terms of the said rental agreements.

Article 8. Discounts, Rebates, Refunds.—All discounts, rebates and refunds, and all returns from sale of surplus materials, equipment, etc., shall accrue to the Owner, and the Contractor shall make provisions so that they can be secured.

Article 9. Contractor's Financial Responsibility.—Any cost due to the negligence of the Contractor or anyone directly employed by him, either for the making good of defective work, disposal of material wrongly supplied, making good of damage to property, or excess costs for material or labor, or otherwise, shall be borne by the Contractor, and the Owner may withhold money due the Contractor to cover any such cost already paid by him as part of the cost of the work.

This article supersedes the provisions of Articles 13, 14 and 16 of the General Conditions of the Contract so far as they are inconsistent herewith.

Article 10. Separate Contracts.—All portions of the work that the Contractor's organization has not been accustomed to perform or that the Owner may direct, shall be executed under separate contracts let by the Owner direct. In such cases either the Contractor shall ask for bids from contractors approved by the Architect and shall deliver such bids to him, or the Architect shall procure such bids himself, and in either case the Architect shall determine, with the advice of the Contractor and subject to the approval of the Owner, the award and amount of the accepted bid. The Owner shall contract for such work direct with such approved bidders in accordance with the terms of this agreement and the General Conditions of the Contract, which Conditions shall, for the purposes of such contracts, stand as printed or written and not be subject to the modifications set forth herein.

The Contractor, being fully responsible for the general management of the building operation, shall have full directing authority over the execution of the separate contracts.

The separate Contractors shall not only co-operate with each other, as provided in Article 41 of the General Conditions of the Contract, but they shall conform to all directions of the Contractor in regard to the progress of the work.

Article 11. Title to the Work.—The title of all work completed and in course of construction and of all materials on account of which any payment has been made, and materials to be paid for under Article 7, shall be in the Owner.

Article 12. Accounting, Inspection, Audit.—The Contractor shall check all material and labor entering into the work and shall keep such full and detailed accounts as may be necessary to proper financial management under this Agreement and the system shall be such as is satisfactory to the Architect or to an auditor appointed by the Owner. The Architect, the auditor and their time-keepers and clerks shall be afforded access to the work and to all the Contractor's books, records, correspondence, instructions, drawings, receipts, vouchers, memoranda, etc., relating to this contract, and the Contractor shall preserve all such records for a period of two years after the final payment hereunder.

Article 13. Applications for Payment.—The Contractor shall, between the first and seventh of each month, deliver to the Architect a statement, sworn to if required, showing in detail and as completely as possible all moneys paid out by him on account of the cost of the work during the previous month for which he is to be reimbursed under Article 5 hereof, with original pay rolls for labor, checked and approved by a person satisfactory to the Architect, and all receipted bills.

He shall at the same time submit to the Architect a complete statement of all moneys properly due for materials or on account of separate contracts, or on account of his fee, or otherwise, which are to be paid direct by the Owner under Article 7 hereof.

The provisions of this Article supersede those of Article 26 of the General Conditions of the Contract.

Article 14. Certificates of Payment.—The Architect shall check the Contractor's statements of moneys due, called for in Article 13, and shall promptly issue certificates to the Owner for all such as he approves, which certificates shall be payable on issuance.

The provisions of this Article supersede the first paragraph of Article 27 of the General Conditions of the Contract.

Article 15. Disbursements.—Should the Contractor neglect or refuse to pay, within five days after it falls due, any bill legitimately incurred by him hereunder (and for which he is to be reimbursed under Article 5), the Owner, after giving the Contractor twenty-four hours' written notice of his intentions so to do, shall have the right to pay such bill directly, in which event such payment shall not, for the purpose either of reimbursement or of calculating the Contractor's fee, be included in the cost of the work.

Article 16. Termination of Contract.—[The provisions of this Article supersede all of Article 37 of the General Conditions of the Contract except the first sentence.]

If the Owner should terminate the contract under the first sentence of Article 37 of the General Conditions of the Contract, he shall reimburse the Contractor for the balance of all payments made by him under Article 5, plus a fee computed upon the cost of the work to date at the rate of percentage named in Article 4 hereof, or if the Contractor's fee be stated as a fixed sum, the Owner shall pay the Contractor such an amount as will increase the payments on account of his fee to a sum which bears the same ratio to the said fixed sum as the cost of the work at the time of termination bears to a reasonable estimated cost of the work completed, and the Owner shall also pay to the Contractor fair compensation, either by purchase or rental, at the election of the Owner, for any equipment retained. In case of such termination of the contract the Owner shall further assume and become liable for all obligations, commitments and unliquidated claims that the Contractor may have

theretofore, in good faith, undertaken or incurred in connection with said work and the Contractor shall, as a condition of receiving the payments mentioned in this Article, execute and deliver all such papers and take all such steps, including the legal assignment of his contractual rights, as the Owner may require for the purpose of fully vesting in him the rights and benefits of the Contractor under such obligations or commitments.

The Contractor and the Owner for themselves, their successors, executors, administrators and assigns hereby agree to the full performance of the covenants herein contained.

In witness whereof, they have executed this agreement the day and year first above written.

A contract of this sort is said to be what the law would imply if no price were fixed. *Charles Elmer & Sons v. Kelly*, 263 Fed. 687.

Under charter provisions which authorize public officers to make contracts for work or materials, and for work to be performed, a public corporation may make a contract on a "cost plus fee" basis. *Crowe v. Boyle*, — Cal. —, 193 Pac. 111.

In the absence of a special provision therefor a contractor can not receive a percentage based on his investment in his plant. *Charles Elmer & Sons v. Kelly*, 263 Fed. 687.

Nor for tools used in construction. *Shaw v. G. B. Beaumont Co.*, 88 N. J. Eq. 333, 2 A. L. R. 122, 102 Atl. 151.

Nor for depreciation. *Savannah A. & N. Ry. v. Oliver*, 174 Fed. 140. [Per curiam.]

Nor for overhead, office expenses, etc. *Charles Elmer & Sons v. Kelly*, 263 Fed. 687; *Shaw v. G. B. Beaumont Co.*, 88 N. J. Eq. 333, 2 A. L. R. 122, 102 Atl. 151. Contra: *Hoggson Bros. v. Spiekerman*, 161 N. Y. Supp. 930, 175 App. Div. 144.

Nor for the cost of correcting defects, etc. *Charles Elmer & Sons v. Kelly*, 263 Fed. 687; *Hoggson Bros. v. Spiekerman*, 161 N. Y. Supp. 930, 175 App. Div. 144.

Nor for the profits of sub-contractors. *Grafton Hotel Co. v. Walsh*, 228 Fed. 5.

Nor for unreasonable or unnecessary expenditures. *Westendorf v. Dinlenny*, 92 N. Y. Supp. 858; *Title Guarantee & Trust Co. v. Pam*, 182 N. Y. Supp. 824, 192 App. Div. 268.

For the crime of false pretenses by padding pay-rolls, see *State v. Cook*, — Wash. —, 194 Pac. 401.

The contractor is entitled to additional expense due to changes in plans made by the owner. *Schafer v. Lee*, — Okla. —, 166 Pac. 94.

For a contract providing for no charge for superintendence for construction in excess of a fixed price, see *Payne v. Cunningham*, 175 Cal. 166, 165 Pac. 531.

See references under § 3821.

§ 3829. Standard form of agreement between contractor and sub-contractor—Issued by the American Institute of Architects—For use in connection with the third edition of the standard form of agreement and general conditions of the contract.¹

This agreement, made this — day of —, 19—, by and between —, hereinafter called the Subcontractor, and —, hereinafter called the Contractor.

Witnesseth, That the Subcontractor and Contractor for the considerations hereinafter named agree as follows:

Section 1.—The Subcontractor agrees to furnish all material and perform all work as described in Section 2 hereof for — [here name the kind of building] for — [here insert the name of the Owner], hereinafter called

¹ This form has been approved by the National Association of Builders' Exchanges, the National Association of Master Plumbers, the National Association of Sheet Metal Contractors of the United States, the National Electrical Contractors' Association of the United States, the National Association of Marble Dealers, and the Heating and Piping Contractors National Association. Copyright 1915, by the American Institute of Architects, The Octagon, Washington, D. C.

the Owner, at — [here insert the location of the work], in accordance with the General Conditions of the Contract between the Owner and the Contractor, and in accordance with the Drawings and the Specifications prepared by —, hereinafter called the Architect, all of which General Conditions, Drawings and Specifications signed by the parties thereto or identified by the Architect, form a part of a Contract between the Contractor and the Owner dated —, 19—, and hereby become a part of this Contract.

Section 2.—The Subcontractor and the Contractor agree that the materials to be furnished and work to be done by the Subcontractor are — [here insert a precise description of the work, preferably by reference to the numbers of the Drawings and the pages of the Specifications].

Section 3.—The Subcontractor agrees to complete the several portions and the whole of the work herein sublet by the time or times following: — [here insert the date or dates and if there be liquidated damages state them].

Section 4.—The Contractor agrees to pay the Subcontractor for the performance of his work the sum of — (\$—) in current funds, subject to additions and deductions for changes as may be agreed upon, and to make payments on account thereof in accordance with Section 5 hereof.

Section 5.—The Contractor and Subcontractor agree to be bound by the terms of the General Conditions, Drawings and Specifications as far as applicable to this subcontract, and also by the following provisions:

The Subcontractor agrees:

(a) To be bound to the Contractor by the terms of the General Conditions, Drawings and Specifications, and to assume toward him all the obligations and responsibilities that he, by those documents, assumes toward the Owner.

(b) To submit to the Contractor applications for payment in such reasonable time as to enable the Contractor to apply for payment under his contract.

(c) To make all claims for extras, for extensions of time and for damages for delays or otherwise, to the Contractor in the manner provided in the General Conditions for like claims by the Contractor upon the Owner, except that the time for making claims for extra cost is one week.

The Contractor agrees:

(d) To be bound to the Subcontractor by all the obligations that the Owner assumes to the Contractor under the General Conditions, Drawings and Specifications, and by all the provisions thereof affording remedies and redress to the Contractor from the Owner.

(e) To pay the Subcontractor, upon the issuance of certificates, if issued under a schedule of values, the amount allowed to the Contractor on account of the Subcontractor's work to the extent of the Subcontractor's interest therein.

(f) To pay the Subcontractor, upon the issuance of certificates, if issued otherwise than as in (e), so that at all times his total payments shall be as large in proportion to the value of the work done by him as the total amount certified to the Contractor is to the value of the work done by him.

(g) To pay the Subcontractor to such extent as may be provided by the Contract Documents or the Subcontract, if either of these provides for earlier or larger payments than the above.

(h) To pay the Subcontractor on demand for his work or materials as far as executed and fixed in place, less the retained percentage, at the time the certificate should issue, even though the Architect fails to issue it for any cause not the fault of the Subcontractor.

(j) To pay the Subcontractor a just share of any fire insurance money received by him, the Contractor, under the General Conditions.

(k) To make no demand for liquidated damages or penalty for delay in any sum in excess of such amount as may be specifically named in the Subcontract.

(l) That no claim for services rendered or materials furnished by the Contractor to the Subcontractor shall be valid unless written notice thereof is

given by the Contractor to the Subcontractor during the first ten days of the calendar month following that in which the claim originated.

(m) To give the Subcontractor an opportunity to be present and to submit evidence in any arbitration involving his rights.

(n) To name as arbitrator under the General Conditions, the person nominated by the Subcontractor if the sole cause of dispute is the work, materials, rights or responsibilities of the Subcontractor; or, if of the Subcontractor and any other Subcontractor jointly, to name as such arbitrator the person upon whom they agree.

The Contractor and the Subcontractor agree that:

(o) In the matter of arbitration, their rights and obligations and all procedure shall be analogous to those set forth in the General Conditions.

Nothing herein shall create any obligation on the part of the Owner to pay or to see to the payment of any sums to any Subcontractor.

Finally.—The Subcontractor and Contractor, for themselves, their heirs, successors, executors, administrators and assigns, do hereby agree to the full performance of the covenants herein contained.

In witness whereof, they have hereunto set their hands the day and date first above written.

In presence of

_____,
Subcontractor,
_____,
Contractor.

§ 3830. Building contract—Waiver of priority of lien.

The undersigned, A. B., Head-contractor—, C. D., Sub-contractor—, E. F., G. H. (etc.), and Material-men and laborers for the construction of a building upon a lot of ground owned by L. M. and described as follows: _____ [insert description of realty], in consideration of one dollar paid to each of them severally by X. Y., the receipt whereof is hereby acknowledged, and in further consideration of a loan of \$_____ granted by the said X. Y. to the said L. M. and secured by mortgage upon said premises, do— hereby respectively postpone to the said mortgage lien any priority which they may have or might otherwise obtain by Mechanic's lien, or other similar lien upon said premises.

Dated at _____, this _____ day of _____, 19—.

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See references under § 3821.

§ 3831. Building and construction contract—Street improvement—Municipal corporation.

Contract between the City of X., of the first part, and A. B., Contractor—, of the second part, for improving [insert name of street], from _____ to _____ by [insert nature of improvement], in pursuance of the following, to-wit:

1. Resolution declaring it necessary to improve said _____ determining the general nature of the proposed improvement, the grade thereof, and approving plans, specifications, estimates, and profiles therefor, passed by Council _____, 19—; duly advertised in _____, commencing _____, 19—.

2. Certificate of Clerk of Council as to all claims given _____, 19—.

3. Ordinance No. _____ determining to proceed with the improvement of said _____ passed by the said Council _____, 19—; duly advertised in _____.

4. Ordinance No. ——— authorizing Director of Public Service to execute contract passed by the said Council ———, 19—.

5. Bids duly advertised for in ———, commencing ———, 19—.

6. Bids opened by the Director of Public Service ———, 19—.

7. Determination by the Director of Public Service that ——— is the lowest and best bidder ———, 19—.

8. Approved by the Board of Control ———, 19—.

This contract, made and entered into this ——— day of ———, in the year one thousand nine hundred and ———, by and between the City of X., of the first part, and A. B., Contractor—, of the second part:

Witnesseth: That the said part— of the second part ha— agreed, and by these presents do— agree, with the said party of the first part, for the consideration hereinbefore mentioned, to furnish at ——— own proper cost and expense all the necessary materials and labor of every description, and to carry out and complete in a good, firm and substantial manner the improving [insert name of street], from ——— to ———, by [insert nature of improvement], in accordance with plans and profiles on file in the office of the Chief Engineer of the Department of Public Service and in accordance with the specifications hereinafter set forth, subject to such changes as may be made from time to time by the Director of Public Service of said City.

The provisions contained in the "Legal Notice," in "Information for Bidders," in "Engineer's Estimate," and in the "Proposal," as well as the plans and profiles for this work on file in the Engineer's office, are hereby also embodied as a part of this agreement.

The specifications under which the work embraced in this agreement shall be performed are as follows:

SPECIFICATIONS—GENERAL PROVISIONS

(The headings of the various sections are simply for convenience in reference and are not to be considered a part of the specifications.)

Definitions—Section 1. The term "City" wherever used in these specifications shall mean the City of ——— acting through its Director of Public Service or his properly authorized agents, such agents acting severally within the scope of the particular duties entrusted to them.

The term "Engineer" where used, shall mean the Chief Engineer of the Department of Public Service of said City or his properly authorized agent.

The term "Contractor" wherever used in these specifications shall mean the party of the second part entering into contract with the City for the performance of this work.

Wherever in the specifications or upon the plans, the words directed, required, permitted, ordered, designated, prescribed, or words of like import are used, it shall be understood that the direction, requirement, permission, order, designation, or prescription of the Director of Public Service is intended, and similarly the words approved, acceptable, satisfactory, or words of like import, shall mean approved by, or acceptable or satisfactory to, the Director of Public Service, unless otherwise expressly stated.

Decisions—Section 2. All the work under this contract shall be done to the satisfaction of the Director of Public Service, who shall in all cases determine the amount, quality, acceptability and fitness of the several kinds of work and materials which are to be paid for hereunder, and shall decide all questions which may arise as to the fulfillment of this contract on the part of the Contractor, and the Director's determination and decision thereon shall be final and conclusive; and such determination and decision, in case any question shall arise, shall be a condition precedent to the right of the Contractor to receive any moneys hereunder.

Orders to Contractor—Section 3. The address given in the bid or proposal upon which this contract is founded is hereby designated as the place where all notices, letters and other communications to the Contractor shall be mailed or delivered. The delivering at the above-named place or depositing in a post-paid

wrapper directed to the above place, in any post-office box regularly maintained by the post-office, of any notice, letter or other communication to the Contractor, shall be deemed sufficient service thereof upon the Contractor, and the date of such service shall be the date of such delivery or mailing. Such address may be changed at any time by an instrument in writing executed and acknowledged by the Contractor and delivered to the Director of Public Service. Nothing herein contained shall be deemed to preclude or render inoperative the service of any notice, letter or other communication upon the Contractor personally.

The Contractor must have on the work at all times a foreman, superintendent, or other competent representative to whom orders and instructions may be given. Such orders shall have the same force and effect as if given directly to the Contractor.

Incompetent Workmen—Section 4. Incompetent, careless, or disorderly workmen or foremen will not be permitted on the work, and any such shall immediately be discharged by the Contractor upon complaint of the Engineer.

Work Embraced—Section 5. The Contractor shall do all the work and furnish all the materials, except as herein otherwise specified, necessary or proper for performing and completing the work specified hereunder. The methods and appliances used therefor must be such as will produce a satisfactory quality of work and ensure safety to the public and to property.

Liability of Contractor for Patents, Injuries, etc.—Section 6. The Contractor shall take all responsibility for the work, and take all precautions for preventing injuries to persons and property on or about the work; shall bear all losses resulting to him on account of the amount or character of the work, or because the nature of the ground on which the work is done is different from what was estimated or expected, or on account of the weather, floods, elements or other cause; and he shall assume the defense of, and indemnify and save harmless, the City and its individual officers and agents, from all claims relating to labor and materials furnished for the work; to inventions, patents and patent rights used in doing the work; to injuries to any person or corporations received or sustained by or from the Contractor and his employees in doing the work, or in consequence of any improper materials, methods, implements or labor used therein; and to any act, omission or neglect of the Contractor and his employees therein.

If the Contractor shall claim compensation for any damage sustained by reason of the acts of the City, he shall, within five days after the sustaining of such damage make a written statement of the nature of the damage sustained, to the Director of Public Service. On or before the fifteenth day of the month succeeding that in which any such damage shall have been sustained, the Contractor shall file with the Director of Public Service an itemized statement of the details and amount of such damage, and unless such statement shall be made as thus required, his claim for compensation may be forfeited and invalidated, and he shall not be entitled to payment on account of any such damage.

Subletting or Assigning—Section 7. The Contractor shall give his personal attention constantly to the faithful prosecution of the work, shall keep the same under his personal control, and shall not assign by power of attorney or otherwise, nor sublet the work or any part thereof, without the previous consent of the Director of Public Service, and shall not, either legally or equitably, assign any of the moneys payable under this agreement, or his claim thereto, unless by and with the like consent of the said Director.

Assigning or subletting the whole or any portion of this contract shall not operate to release the Contractor or his bondsmen hereunder from any of the contract obligations.

Sanitary Regulations—Section 8. Necessary sanitary conveniences for the use of laborers on the work, properly secluded from public observation, shall be constructed and maintained by the Contractor in such manner and at such points as shall be approved, and their use shall be strictly enforced.

Plans, Profiles and Specifications—Section 9. The plans, profiles, and specifications are intended to be explanatory and supplementary of one another, but should any discrepancy appear or any misunderstanding arise as to the import of anything contained in them, the explanation of the Director of Public Service

shall be final and binding on the Contractor. Any correction of errors or omissions in plans and specifications may be made when such correction is necessary for the proper fulfillment of their intentions as construed by the said Director.

Lines and Grades—Section 10. All work to be done under this agreement must be in accordance with the lines and grades as staked out by the Engineer. The Contractor must notify the Engineer 24 hours in advance of needing his services for laying out the work. The Contractor will be required to furnish all stakes for curb setting or other purposes, of satisfactory size and quality, and will also furnish all labor necessary for setting same. The Contractor will be responsible for the protection of all stakes until permission is given for their removal.

Time for Completion of Contract—Section 11. The Contractor shall begin work within two weeks after notice to do so. All work embraced in this contract shall be completed and ready for final acceptance within _____ weeks after the expiration of the two weeks following notice to begin work.

If the Contractor fails to complete the work within the required period he will be liable for the wages of all inspectors on the improvement subsequent to the time set for completion, unless for reasons satisfactory to the Director of Public Service, the said Director shall extend the time allowed for completion. Such satisfactory reasons to be: A material increase either in the amount or difficulty of the work over what was originally contemplated by the Engineer; unusual delay in the installation of street car tracks, of gas mains, conduits, etc.; delays due to suspension of work by order of the Director or Engineer for any reason; and delays in the prosecution of the work due to causes beyond the control of the Contractor.

Conduct of Work—Section 12. The work will be commenced at such points as the Engineer may direct. If the work under this contract conflicts with other work to be done in the same territory for or by the City or Public Service Corporations, the Director of Public Service shall determine when and how the work shall proceed. Permits will be issued from time to time specifying the limits within which the street may be torn up. The Contractor must have such permits on the work at all times as evidence to the police of his authority to proceed.

The Director of Public Service, on account of public necessity, adverse weather conditions, or other reasons, may order all work suspended and thereupon the Contractor must pile up all material neatly, fill depressions, provide temporary board walks, crossings, and take such other means as are necessary to protect the public and the work and facilitate traffic. The time allowed for the completion of the work shall be extended in an amount equal to that lost by the Contractor in this manner.

During the progress of the work, the Contractor shall in a reasonable manner accommodate both vehicular and foot traffic. Street intersections may be blocked only one-half at a time, and the Contractor will lay and maintain temporary board-walks, driveways, bridges, and crossings such as in the opinion of the Engineer are necessary to reasonably accommodate the public. The Contractor shall provide lights, barricades and watchmen necessary to protect the public or the work.

Whenever, in the opinion of the Engineer, it is necessary that certain portions of the work be done immediately, the Contractor shall proceed with such work without delay. On his failure to do so, after either verbal or written order by the Engineer, the Director of Public Service shall have the power to proceed with such work forthwith, by day labor or otherwise, and deduct the cost of the work from any money due, or which may become due the Contractor.

Interference with Existing Structures and Traffic—Section 13. The Contractor shall notify, at least 48 hours before breaking ground, all the City Departments or Public Service Corporations whose tracks, wires, pipes, conduits or other structures may be affected by his operations. He shall likewise notify the Chief of the Fire Department of the temporary blocking of any street. The Contractor shall not at any time interfere with the operation of street cars without special permission of the Director of Public Service.

Traction Company—Section 14. Where the improvement consists of entire new construction and where street car tracks are relaid at the time of the improvement, the Traction Company will bring their concrete to the elevation of the sub-grade. The balance of the concrete will be placed by the Contractor. In estimating amount of concrete placed by Contractor, the cubical space occupied by the ties will be deducted, but no deduction will be made for the space occupied by the rails.

Where the improvement consists essentially of resurfacing work without the removal of the old concrete base, the Traction Company, after the installation of their new track, will bring the concrete level with the tops of the ties.

The Traction Company will plaster the webs of all street car rails with a mortar composed of one part Portland cement and two parts sand, immediately in advance of the paving. This plaster must be applied so as to adhere firmly to the rail and be vertical so as to allow the paving to make a close joint with rails. This plastering must be solid and in perfect condition at the time the pavement is laid.

Miscellaneous Work—Section 15. The work under this improvement shall be joined with existing improvements in a neat and workmanlike manner, and adjoining curbs, gutters and pavements shall be taken up and relaid so as to conform to the line, grade and crown of the new improvement and to afford good drainage. Curbs, flag gutters and crossing stones reset in this manner shall be redressed and relaid in accordance with specifications hereunder for new work.

In repaving asphalt, brick, bowlder, stone block and wood block, the materials and work must conform to the specifications for these respective kinds of pavements, and any old material not of the required character must be discarded and suitable material supplied. The repaving items where they appear do not include foundations, which will be of concrete, broken stone or gravel and paid for as such. Where the intersecting street is macadam, broken stone conforming to the requirements for the top course of plain macadam pavement will be used for making necessary approaches; stone used for this purpose shall be well rolled until compacted, binder material being added during the rolling.

The Contractor shall keep all excavations and other parts of the work clear of all water regardless of its source.

Old materials not replaced in the work in their original form will become the property of, and must be disposed of by, the Contractor, except where otherwise provided.

Extra Work—Section 16. No extra work shall be allowed unless ordered in writing by the Chief Engineer. Where work is ordered and is of considerable magnitude, the transaction must be treated as a modification of the contract and the prices must be agreed upon and a supplementary contract entered into under the provisions of Section 22. If of minor importance, the transaction may, if the Engineer so direct, be handled on the basis of actual cost of labor and materials involved plus fifteen (15) per cent. In figuring cost of labor no charge will be allowed for time of general foreman or superintendents, it being understood that such is included in the fifteen (15) per cent. In all cases of such extra work, the Contractor must make out invoices immediately after the completion of the work and transmit to the Engineer. If the work extends over more than one week, invoices must be made at the end of each week.

Inspection—Section 17. No material of any kind may be used until it has been inspected and accepted by the Engineer. The Contractor must furnish all labor necessary in handling such material for inspection. All materials rejected must be immediately hauled away from the vicinity of the work. The inspection and supervision by the City is intended to aid the Contractor in supplying all material and in doing all work in accordance with the plans, profiles and specifications, but such inspection shall not operate to release him from any of his contract obligations. Materials or workmanship found at any time to be defective shall be immediately remedied by the Contractor regardless of previous inspection. If the Contractor fails to comply promptly with these requirements, the Director of Public Service may authorize other parties to do this work and

deduct the cost thereof from any money due or which may become due the Contractor.

To provide for and facilitate inspection, the Contractor shall immediately notify the Engineer of the arrival of all materials and of the time of beginning the various portions of the work at least 48 hours in advance thereof. A reasonable notice shall be given of all operations requiring plant inspection.

Samples—Section 18. Before commencing work the successful bidder by the submission of samples for testing or otherwise must present satisfactory evidence that the material he proposes to furnish may be reasonably expected to meet the specifications. The object of requiring this information is to prevent delay in so far as possible after the work is once started.

Sub-Surface Work—Section 19. The City reserves the right to lay or relay or allow to be laid or relaid any sewers, drains, gas pipes, water pipes, conduits, street or steam railway tracks or any other structure or necessary appurtenances thereto, which, in the opinion of the Director of Public Service are necessary or expedient.

Particular attention is called to the fact that it is in general the intention of the City to require all property owners to have water and sewer connections made to all lots before laying the pavement.

If the Contractor hereunder finds that the trenches are not properly back-filled, he shall so notify the Engineer in writing, allowing ample time to have the defects remedied before laying the concrete or other foundations.

If an opening is made subsequent to the completion of the improvement, all the work of restoring the pavement will be done directly by the City, and the Contractor hereunder will be relieved of any maintenance requirements on the portion of the pavement so disturbed.

Guarantee—Section 20. The Contractor hereby agrees that the repair of all defects in the roadway pavement or other work done under this contract arising, in the opinion of the Director of Public Service, out of the use of defective material, settlement of foundation or improper workmanship in the construction thereof and which repairs from such causes may become necessary during the period of ——— years after the date of the approval by the Director of Public Service of the Engineer's certificate of "Total Cost," shall be made by him without expense to the party of the first part, and the Contractor agrees to make such repairs when and as directed by the party of the first part, by a written notice served upon him, and if after having received such notice, the Contractor fails to make such repairs within five days from the receipt of said written notice, the party of the first part may thereupon cause said repairs to be made and charge the expense thereof to the Contractor or his surety. The failure of the City to give notice within the specified period shall not preclude the operation of this section.

The City will repair and maintain all openings made in the pavement subsequent to its acceptance by the City.

Retainer—Section 21. The City will retain ten per cent of the entire cost of the work done by the Contractor for the above guarantee period of years from the date of the approval by the Director of Public Service of the Engineer's certificate of "Total Cost." If the Contractor shall have complied with all the requirements of his contract in keeping said street in good and proper repair, then at the end of each six months, upon order of the Director of Public Service, the Contractor shall receive interest at the rate of three per cent per annum on the amount so retained from date of the investment of such amount retained, in interest bearing bonds; but if the Contractor shall fail to make all necessary repairs, as indicated by said Director, at any time during the above period, then the Director shall have power to expend all or such part of any interest that may be or may become due to said Contractor; and if such interest is insufficient, to expend all or such part of the amounts so retained as the said Director may see fit, and apply the same to making the necessary repairs, and the interest shall thereafter be allowed to the Contractor upon the residue only of the retained percentage remaining to his credit. Should the amount retained not be sufficient to make the required repairs, the Contractor shall at once make good the deficiency. At the expiration of the guarantee period, as above specified, whatever remains to the credit of the Contractor, provided all repairs

shall have been made satisfactory to the said Director, shall be paid to the Contractor.

Modification of Contract—Section 22. The Director of Public Service may, when deemed necessary, make alterations and modifications in the specifications and plans for the work, or may omit from the work covered by this contract any portion thereof, or may order extra work done; the price to be paid for the work under such altered and modified contract shall be agreed upon in writing, endorsed upon the original contract, and signed by both parties to this contract; the entire cost of the work, however, shall not exceed the estimated cost stated in the Resolution by the City Council for this improvement. And it is expressly agreed and understood that such alterations, additions, modifications or omissions shall not in any way violate or annul said contract, and the Contractor hereby agrees not to claim or bring suit for any damages, whether for loss of profits or otherwise, on account of these changes. Whenever, during the progress of the work, any additional work, or change, or modification in the work contracted for, is agreed upon as aforesaid, such additional work or addition or modification, shall be considered and treated as though originally contracted for, and shall be subject to all the terms, conditions and provisions of the original contract.

Delayed Work—Section 23. In case the Contractor fails to furnish materials or execute the work in accordance with the plans and specifications, or fails to proceed with the same as rapidly as the Director of Public Service deems it necessary to enable the Contractor to complete the work within the specified time, then and in either such case, upon ten days' written notice to the Contractor, the City shall have the right to annul and determine the contract, and to enter upon and take possession of the work. And if the contract be thus determined, the decision of the Director of Public Service shall be conclusive, and the Contractor shall not be entitled to claim or receive any damage for not being allowed to proceed. In such case, also, the Director of Public Service shall at once cause the work already done under the contract to be measured. Ten per cent of the value of the amount thus shown shall be set aside for the retainer under the provisions hereof. And the Director shall, after advertising once a week for two weeks, relet the work remaining undone. If the cost of the work done under such reletting exceed what it would have cost done under this contract, such increased cost shall be paid from any money on hand for work done under this contract other than the ten per cent retained, and if that be not sufficient, then by the Contractor and the sureties on his bond hereunder. There shall also be paid, in like manner, all costs and expense of reletting the work and damages resulting from the non-completion of the work within the specified time. If when the work is finished under such reletting it be found that there is any money due said Contractor, it shall be paid him; but in no case shall any money be due or payable to the Contractor under this contract after the contract is annulled until the work is completed and accepted and all claims and suits by reason of said work have been finally settled. The retained ten per cent shall be held for the full guarantee period as specified in Sections 20 and 21, and used, as provided in other provisions hereof, for keeping in repair so much of the work as was done under this contract. The Contractor under such reletting will be required to keep in repair the work done by him.

Injunctions—Section 24. If legal obstructions to the prosecution of the work arise, the delay shall operate to extend the time for the completion of the part or parts of the work obstructed for the length of time the obstruction continues and no longer, but no damages shall be claimed or allowed the Contractor for any such delay.

Cleaning up—Section 25. As fast as the pavement is laid, all rubbish and surplus material which may accumulate during the work herein provided for shall be removed from the roadway, sidewalks and intersecting streets by the Contractor, and such completed portion of the street left clean and in good condition.

Before final acceptance the Contractor shall clean the pavement, gutters and crossings in a thorough and effective manner by sweeping and scraping as ordered.

Measurements—Section 26. No extra or customary measurements of any kind, unless specially noted, will be allowed in measuring the work under these specifications; the actual length, area, solid contents, or number only shall be considered. In measuring pavement areas, however, individual obstructions having a surface area less than one-half ($\frac{1}{2}$) square yard shall not be deducted; the area of street car rails shall be deducted.

The measurements of the City as to the amount of work done shall be final and conclusive.

Prices—Section 27. The City shall pay and the Contractor shall receive the prices herein stipulated as full compensation for everything furnished and done by the Contractor under this contract, including all incidental work required but not specifically mentioned, and also for all loss or damage arising out of the nature of the work aforesaid, or from the action of the weather, floods, or from any unforeseen obstruction or difficulty encountered in the prosecution of the work, and for all risks of every description connected with the work, and for all expenses incurred by or in consequence of the suspension or discontinuance of the work, as herein specified, and for well and faithfully completing the work, and the whole thereof, as herein provided, together with remedying all defects developing during the period for which the work is guaranteed.

Partial Payments—Section 28. The Engineer shall, from time to time, as the work progresses, but not oftener than once a month, make in writing an estimate, such as in his opinion shall be just and fair, of the amount and value of the work done and materials incorporated in the work by the Contractor in the performance of this contract. On the basis of this estimate, the City shall pay the Contractor an amount equivalent to — per cent of the value at contract prices of work so completed.

Estimates may at any time be withheld or reduced if, in the opinion of the Director of Public Service, the work is not proceeding in accordance with the provisions of this contract.

Final Payment—Section 29. The Engineer shall, as soon as practicable after the completion of this contract, prepare a statement of the total cost of the work done hereunder, and the City shall, ninety days after the approval of such total cost statement by the Director of Public Service, pay the entire sum so found to be due hereunder, after deducting therefrom all previous payments and all amounts to be kept and all amounts to be retained, under the provisions of this contract; all prior partial estimates and payments shall be subject to correction in the statement of "Total Cost."

No Estoppel—Section 30. The City shall not be precluded or estopped by any return or certificate made or given by it, from, at any time, either before or after the final completion and acceptance of the work and payment therefor pursuant to any such return or certificate, showing the true and correct amount and character of the work done and materials furnished by the Contractor or any other person under this agreement, or from showing at any time that any such return or certificate is untrue and incorrect or improperly made in any particular, or that the work and materials, or any part thereof, do not in fact conform to the specifications; and the City shall not be precluded or estopped, notwithstanding any such return or certificate and payment in accordance therewith, from demanding and recovering from the Contractor such damages as it may sustain by reason of his failure to comply with the specifications.

Neither the acceptance by the City, nor any order, measurement, or certificate, by the City, nor any order for payment of money, nor any payment for, nor acceptance of the whole or any part of the work by the City, nor any extension of time, nor any possession taken by the City, or its employees, shall operate as a waiver of any portion of this contract or of any power herein reserved to the City, or any rights to damages herein provided; nor shall any waiver of any breach of this contract be held to be a waiver of any other or subsequent breach.

Last Payment to Terminate Liability of City—Section 31. No person or corporation, other than the signer of this contract as Contractor, has now any interest hereunder, and no claim shall be made or be valid, and neither the City nor its agents shall be liable for, or be held to pay any money, except as provided in Section 21-27-28-29. The acceptance by the Contractor of the last

payment made as aforesaid shall operate as, and shall be a release to the City and agents thereof, from all claim and liability to the Contractor for anything done or furnished for, or relating to the work, or for any act or neglect of the City or of any person relating to or affecting the work, except the claim against the City for the remainder, if any there be, of the amount kept or retained as provided in Section 21.

ITEMS GRADING—ITEM 1

The grading shall include the proper shaping of sidewalks, the necessary slopes and the establishment of sub-grade for roadway, removing brush and trees and all necessary grubbing.

Where the embankment is less than three (3) feet the Contractor shall grub all trees and stumps, and if the embankment exceeds three (3) feet, all trees and stumps shall be close cut and grubbed to the extent designated by the Engineer.

Material wasted from excavations must not be deposited where, in the opinion of the Engineer, it will be likely to cause damage of any kind.

Excavation.—In excavation the sides shall be neatly and evenly dressed to a slope of one and one-half horizontal to one vertical, or such other slope as the Engineer may direct.

The implements and methods used, especially in the case of blasting, shall meet with the approval of the Engineer.

In that part of the roadway where street railway tracks are to be relaid, the Contractor shall excavate to the top of the ties, and any additional excavation necessary for the track work shall be done by the Street Railway Company.

Embankment.—In embankment, the sides shall be neatly and evenly dressed to a slope of one and one-half horizontal to one vertical, or such other slope as the Engineer may direct, and shall in all cases be formed of clear earth, clay, sand, gravel, or rock; no perishable or vegetable matter being used. Embankments shall be started on a firm base from which top-soil and perishable matter shall have been removed to the extent directed. The work shall be commenced at the slope stakes, and be deposited in layers not exceeding nine (9) inches in thickness when first spread; the layers shall be concave in form, commencing at the sides, and keeping the same at least one (1) foot higher than the center until the sides are up to the required height, when the remaining portion of earth shall be deposited in layers so as to conform to the proper shaping of the street.

In forming embankments each of the above nine (9) inch layers shall be thoroughly rolled with a steam roller of same weight as specified for sub-grade.

The Contractor shall also direct the movements of the wagons and carts used on the work, so that all parts of the embankment shall be equally compacted.

The Contractor must make all the necessary allowance for shrinkage and settlement in the embankments as they shall in no case be considered complete until at the proper height after consolidation.

Where the embankment rests upon a hillside, the ground shall be cleared of soil and all vegetable matter and benched to receive fill. Benching referred to must be done as directed by the Engineer, and shall be paid for at the price bid for grading per cubic yard.

Sub-grade.—The sub-grade shall be thoroughly solidified by a steam road roller giving a pressure of not less than 250 pounds per inch of width; during the rolling all low spots shall be filled and all high spots trimmed off; this process shall be continued until the sub-grade is thoroughly solidified, at the proper grade, and parallel to the proposed finished surface of the street. All places inaccessible to the roller shall be thoroughly rammed. All soft or spongy spots developed by the rolling shall be dug out and replaced with good earth, gravel or other material as may be required; all material used in this manner shall be paid for as grading, except broken stone, which if ordered shall be paid for as such.

Measurement.—The measurement of excavation shall be that for material in place before removal; for embankment, shall be that in place after solidification. In either case the measurement shall only cover that done in accordance with the orders of the Engineer.

Payment.—If there is both excavation and embankment to be performed under this contract, payment shall be made only for the one which is the larger of the two. The price per cubic yard for grading, unless otherwise specified, shall include the removal of all trees or other obstructions, all grubbing, trimming, the disposal of excessive material, the furnishing in place of all material in embankments, all solidification of embankment materials and sub-grade by rolling or otherwise, and all other work incidental to bringing the sidewalks, the side slopes and the sub-grade to the required solidification and cross section.

If no item for grading appears, it shall be understood that the price for this work shall be included in the prices bid for the other items of this contract.

UNDER-DRAINAGE—ITEM 2

Under this item, the Contractor shall provide the system of under-drainage provided for below.

The location, depth, and width of the necessary trenches, and the size of the drain pipe to be used shall be as shown on the plans or as ordered.

The drain pipe shall be sound, well vitrified, butt-jointed sewer pipe, as shown on the plans. This pipe shall be laid to the proper line and grade and shall be connected to catch basins or sewers as directed. In laying, the joints shall be wrapped with a strip of coarse burlap eight inches wide and long enough to encircle the pipe. After laying the drain pipe as herein described, the trenches shall be filled with clean gravel or broken stone, to such depth as shown on plans or as otherwise specified. This filling shall be carefully and thoroughly tamped as placed.

The price bid per lineal foot for Under-drainage shall include all excavation of trenches, the furnishing and placing of the pipe, burlap, porous backfill and all other work incidental to completing the under-drainage system as ordered.

DRAINS—ITEMS 3, 4, 5, 6, 7 and 8

Under these items the Contractor shall provide the system of drains shown on the plans or ordered.

Excavation.—All excavations shall be made in open trenches unless otherwise ordered. No tunneling will be allowed except by written permission or order obtained from the Engineer prior to the commencing of the work in tunnel, and the right is reserved to countermand this order or permit at any time during the progress of the work.

The Contractor must assume the risk of encountering quicksand, hardpan, rock, rubbish, unforeseen obstacles, etc., in his excavation, and no claim for payment other than the price bid per lineal foot will be allowed on account of the character of the ground in which the excavations are made.

Where rock is encountered, the Contractor shall excavate to a depth of six inches below grade, and shall fill the trench to grade with gravel or other acceptable material. The compensation for the material thus removed will be included in and paid for at the price bid per lineal foot.

The width of the excavation shall be six (6) inches greater on each side than the extreme outside diameter of the drains.

Unauthorized Excavation.—So far as the nature of the ground will admit, the bottom of the excavation shall have the shape and dimensions of the outside lower half of the drain pipe. If the trench is excavated below the limits thus prescribed, the Contractor shall, at his own expense refill this space to the proper grade with concrete or other suitable material, as directed.

Extra Excavation and Refill.—If the character of the excavation is deemed unsuitable for a foundation, the Contractor shall excavate below the bottom of the drain to the extent required and other material satisfactory to the Engineer shall be deposited in its place. If the price for such additional excavation and refill is not included in the schedule, the price shall be determined as provided for in these specifications.

Sheeting and Bracing.—For the protection of the work and adjacent property the Contractor shall furnish, place and maintain at his own expense suitable sheeting and bracing in the trench. Additional sheeting or bracing shall be placed at the expense of the Contractor, if deemed necessary, and the compliance with such orders shall not relieve or release the Contractor from his responsibility for the sufficiency of such support.

Sheeting and bracing may be left in place in the trench at the option of the Contractor unless otherwise ordered by the Engineer. When sheeting is left in place it must be cut off at an elevation at least three feet below the surface of the street unless otherwise permitted.

The Engineer may order sheeting and bracing left in place when deemed necessary for the protection of the drain. In such cases only, a charge will be allowed for the same at a rate of twenty (\$20.00) dollars per thousand feet B. M.

Protection of Pipes, etc.—In addition to the necessary sheeting and bracing of the trench all pipes or conduits encountered in the trench shall be carefully supported, protected, and if injured shall be repaired and replaced as directed, and at the expense of the Contractor.

Where it is necessary to alter the alignment or dimensions of a drain because of sub-surface condition, such change shall be made by direction of the Engineer, and without extra cost to the City.

Trench Open.—The length of trench open at any one time shall be controlled by the use of the street or way by the public, but shall always be confined to the limits prescribed by the Engineer.

Pumping, Draining, etc.—The Contractor shall do all pumping, bailing, draining, or other work necessary to keep the trench clear of all water regardless of its source, ground water, sewage or storm water, during the progress of the work and until the cement mortar is sufficiently set to be safe from injury.

Whenever deemed necessary under-drains shall be laid for the purpose of draining the trenches during construction. These pipes shall be laid with open joints entirely surrounded by gravel or broken stone and at a depth below the main drain, as directed by the Engineer. If the price for such under-drain is not included in the schedule, the price shall be determined as provided for in these specifications.

Surplus Excavation.—All surplus materials excavated from the trench shall be removed from the ground as the work progresses or shall be deposited in other places along the line of work as directed.

Pipe.—All pipe and specials shall be of the best quality salt-glazed vitrified clay sewer pipe of the hub and spigot pattern. The pipe shall be free from cracks, warps, fire cracks, blisters, and other serious imperfections.

Each pipe shall have a socket of sufficient diameter to receive the spigot of the next following pipe without any chipping of either pipe, and shall have a clearance all around for the purpose of a joint of at least one-half ($\frac{1}{2}$) inch.

Double strength pipe shall be used. Both body and hub shall have a thickness not less than one-twelfth ($\frac{1}{12}$) inside diameter of the pipe. The depth of the hub shall be at least one and one-half ($1\frac{1}{2}$) inches greater than the required thickness of the pipe.

All pipe will be inspected upon delivery and those which do not conform to the requirements of these specifications will be rejected and shall be immediately removed by the Contractor.

Pipe Laying.—Each pipe shall be laid on a firm bed in conformity to the lines and grades given, and shall form a close joint with the next adjoining pipe. The trench shall be carefully prepared so that the pipe shall rest uniformly for the length of the barrel and ample room shall be made at the sides and below the bells to allow first-class work being done in jointing the pipes. The joints shall be made with a gasket of jute or hemp and Portland Cement mortar, the mortar being mixed in the proportion of one part cement to one part sand. The gasket shall be soaked in a mixture of neat Portland Cement and water and then inserted between the bell and spigot and carefully caulked into place. The remainder of the joints shall be filled with cement mortar applied with the hands, well pressed and caulked into place, after which the joint shall be leveled off with mortar for a distance of two inches from the outer edge of the bell. The joint shall be wrapped in unbleached cotton cloth,

securely tied to prevent the mortar from slipping or being otherwise injured. The inside of the pipe shall be satisfactorily cleaned of all surplus mortar or other foreign substances.

Pipe must be laid in a dry trench; no work shall be done in freezing weather, except where permitted by the Engineer, and in the manner specified by him.

Pipe shall be laid only in the presence of the Inspector.

Branch pipes shall be provided and laid where and as directed. The open ends of pipe and branches shall be sealed with stoneware stoppers, cemented into place in an acceptable manner.

Backfilling or Filling.—Backfilling around the drain shall be done very carefully to insure an even and continuous support to the bottom and sides, a special tamping iron being provided by the Contractor for this purpose. No walking on the drain after it is laid will be permitted until it is covered with earth, thoroughly tamped to a depth of 12 inches above the top of the drain.

Above this point the earth shall be deposited in the trench in layers not over six (6) inches in depth. Each layer will be carefully leveled off and worked into the inequalities in the sides of the trench and will then be thoroughly tamped. After the completion of the backfilling to the sub-grade of the street the trench will be thoroughly flushed with water.

Wherever the sewer is constructed in tunnel, the Contractor shall refill the space between the drain and the sides of the tunnel with sand, gravel or concrete thoroughly rammed into place, unless otherwise directed by the Engineer. The cost of such work shall be included in the price bid.

In places where the drain projects above the natural surface of the ground, the drain shall be covered with earth to a depth of not less than three feet. Where the trenches do not furnish sufficient material the Contractor shall supply such deficiency at his own expense. Such filling shall be placed and tamped as described hereunder for "Backfilling."

Measurements.—Payments will be based on horizontal center line measurements. The interior diameter of special structures and four (4) feet for each manhole will be deducted from the gross length of drain.

Payment.—Unless otherwise specified, the price bid for drains per lineal foot shall include excavating, sheeting and bracing, all pumping, bailing, draining, the furnishing of all materials and the placing or removal of same, and backfilling or refilling.

T BRANCHES—ITEMS 9, 10, 11, and 12

Where directed, the drain pipe to be laid under Items 3 to 8 shall have a 6-inch T branch. Unused ends of branches shall be closed with a suitable cover well cemented in place. The special of which the 6-inch branch is a part will be measured and paid for as straight pipe under Items 3 to 8; the price bid for each T branch will be in addition to the above payment, and will also include the necessary extra excavation and closing of end if unused.

SLANTS—ITEMS 13 and 14

Vitrified clay slants of size specified shall be inserted in brick or concrete drains where directed by the Engineer.

They shall fulfill the requirements for vitrified pipe; they shall be neatly set in the side of the drains and they shall be sealed with a vitrified clay stopper.

MANHOLES—ITEM 15

Standard Manholes shall be four feet in inside diameter. The walls shall be built of 8-inch brick work and plastered on exterior surfaces with a one-half inch coat of mortar; interior joints shall be carefully pointed. Brick work shall conform to requirements of "Brick Masonry," Item 36. Castings shall conform to the requirements of "Cast Iron," specified under Item 27. Manholes shall conform to the standard plans on file in the office of the Engineer, and the channels shall be constructed as ordered.

Steps.—The manhole steps required shall be of good quality wrought iron. Test pieces shall exhibit a minimum tensile breaking strength of 50,000 lbs. per

square inch, and shall endure without signs of distress, cold bending 180 degrees about a curve whose diameter is equal to that of the test piece. The material used shall be sound and free from mechanical defects. Steps shall conform to plans on file in the office of the Engineer. They shall be straight and after thorough cleaning shall be painted with two coats of red lead.

Payment.—The price bid per manhole complete shall include all excavation and backfill and furnishing and placing of all masonry materials, furnishing, painting and setting of all castings and steps.

DROP MANHOLES—ITEM 16

Drop manholes will be built at such places as indicated on the plans and shall be constructed in strict accordance with the standard drawing for drop manholes, Acc. No. 5 on file in the office of the Chief Engineer.

Payment.—The price bid shall be for the manhole complete as specified above.

MANHOLES READJUSTED—ITEM 17

Where it is necessary to raise, lower or alter existing sewer or water manholes, such work shall be done as ordered. The price bid for each manhole shall include the necessary masonry and the resetting of frames and covers.

New frames and covers where ordered shall be paid for separately.

Should the amount of reconstruction found necessary involve the use of over one-fifth cubic yard of masonry, such excess shall be paid for under the Items for "Brick" or "Concrete" masonry, this payment being in addition to the price bid for a readjustment.

MOVING WATER STOP BOXES—ITEM 18

Wherever in the opinion of the Engineer it is necessary to change the grade or shift the curb line, water stop boxes and stop cocks affected by such change shall be moved as directed. In the event of the box being broken in its removal, the same shall be replaced at the contractor's expense.

Payment.—The price bid shall be in full compensation for the removal and resetting of the stop box, the removal and reconnection of the stop cock with the service branch, including the making of joints and the furnishing of any additional service pipe which may be necessary.

INLETS—ITEMS 19, 20, 21, 22, and 23

Inlets, unless otherwise specified on the plans or ordered by the Engineer, shall be constructed in accordance with standard plans for the particular type called for, on file in the office of the Engineer.

All castings shall conform to the requirements for "Cast Iron," specified under Item 27. Brick Masonry shall conform to the requirements for "Brick Masonry," Item 36.

The price bid for each inlet shall include the excavation and backfill, the removal of the old inlet, if such is being replaced, furnishing and placing of castings, masonry materials, etc., except traps, which, when required, will be paid for under Item 26. Pipe connections to sewer will be paid for under Items 3 to 8, according to the size of pipe used.

INLETS CONVERTED TO MANHOLES—ITEM 24

At certain localities it may be necessary to change the location of existing inlets. At such places, if so ordered by the Engineer, the old inlet may be retained for the purpose of changing the direction of the inlet connection pipes. In such cases the brick work of the old inlet will be taken down and rebuilt so that the top conforms to the shape and dimensions of a standard manhole and on the brick work thus reconstructed will be placed a standard manhole top set to the correct roadway grade.

The price bid for this item shall include the necessary reconstruction of the brick work and the furnishing and setting of the manhole cover complete.

INLETS READJUSTED—ITEM 25

Where it is necessary to raise, lower or alter existing inlets, such work shall be done as directed. The price bid shall include the necessary excavation, backfill, masonry and the resetting of castings.

New castings where ordered will be paid for separately.

Should the amount of reconstruction found necessary involve the use of over one-fifth cubic yard of masonry, such excess will be paid for under the item for "Brick" or "Concrete Masonry," this payment being in addition to the price bid for readjustment.

TRAPS—ITEM 26

Traps will be placed where called for on the plans, or where required by the Engineer.

Traps will be of the "Flap Valve" type, conforming to the standard plans on file in the Engineer's office. They shall be made from cast iron conforming to the requirements of "Cast Iron," Item 27. They shall be free from mechanical defects, and shall operate so as to effect a tight closure.

The price bid per trap shall include furnishing and placing.

CASTINGS—ITEM 27

When ordered the Contractor shall replace with new castings, manhole rims and covers, inlet gratings, frames and covers, or other castings as ordered. Such castings shall be in accordance with standard plans on file in the Engineer's office. Covers shall fit into frames with an even and true bearing and with a minimum clearance of three-sixteenths (3-16) inch scant.

All cast iron used on the work shall be of good quality gray cast iron, free from cracks, blow-holes and other defects. Test pieces shall exhibit a minimum tensile breaking strength of 18,000 pounds per square inch.

Castings shall be true to pattern and of the required dimensions. They shall exhibit sharp edges. A maximum variation of 5 per cent from the computed weight will be permitted.

All castings must be clean, free from scale, grease or sand, and shall be thoroughly coated with one coat of approved asphaltic varnish. All castings shall bear in an inconspicuous place the cast mark of the foundry, and shall also bear the stamped or graven seal of a reputable inspection bureau, as evidence of compliance with the foregoing requirements.

All manhole lids must fit perfectly in their frames without rocking.

The price bid per pound for castings shall include furnishing and setting. The readjusting of the manhole and inlet will be paid for separately, as above specified.

TRENCH EXCAVATION—ITEM 28

Excavation.—The excavation for masonry walls or other special structures as ordered shall be made in open trenches of the requisite width and depth. If deemed necessary the sides of the excavation shall be supported by suitable sheeting, rangers and bracing.

If the subsoil proves insecure, the excavation may be carried to a greater depth and width than originally contemplated to allow construction of special masonry footings as ordered.

Backfilling.—The material used in backfill immediately adjacent to retaining walls or drain walls shall consist of a porous material to facilitate drainage, as shown on the plans. All backfilling material for a distance of 6 feet back from the wall shall be placed in 4-inch layers and thoroughly and satisfactorily rammed.

Measurement and Payment.—The trench excavation paid for, by the cubic yard at the price bid, shall be the volume between vertical planes from the outside edges of the footings and between the natural surface and the bottom of the footings. No extra price will be paid for excavation below the bottom of the footings as shown on the plan, unless the extra depth exceeds two feet. If the extra depth exceeds two feet, the Contractor will be allowed force account and cost of materials plus fifteen (15) per cent for all such extra depth.

The price bid for trench excavation will include the necessary bracing and sheeting, all pumping to remove water, and all backfilling to the grade shown on the plan.

Any bracing or sheeting left in place by order of the Engineer will be paid for as specified for Drains, Items 3-8.

DRAINAGE WALLS—ITEM 29

Drain walls shall be constructed as shown on the plans or ordered. The stones used shall be clean, hard limestone of proper size or other suitable material laid in horizontal courses and well bedded and bonded. The drain walls will be paid for by the cubic yard.

Trench excavation will be paid for separately.

CONCRETE—ITEMS 30, 31, and 32

Materials.

The cement used shall be an established brand of Portland Cement, which shall meet all the requirements of the Standard Specifications for Portland Cement of the American Society for Testing Materials, as adopted August 16, 1909, such tests being made in accordance with the methods prescribed by the Committee on Uniform Tests of Cement of the American Society of Civil Engineers adopted January 21, 1903, with all subsequent amendments thereto, or to such tests as the Engineer may make.

Contractors are advised that in the absence of adverse reasons, cement will be accepted upon the satisfactory passing of the tests for specific gravity, fineness, time of setting and the seven-day tensile tests, but in the event of failure or unsatisfactory performance will be held for the full twenty-eight (28) day period.

The cement shall be delivered, in suitable packages with the brand and name of the manufacturer plainly marked thereon.

The Contractor shall keep in store a sufficient quantity of cement to allow time for the twenty-eight (28) day tests to be made without delay to the work. The Contractor shall notify the Engineer when deliveries are to be made a sufficient time in advance so as to allow the Engineer to have a representative present to sample cement; or he shall re-handle the cement in the store-house for the purpose of obtaining samples as directed by the Engineer. The cement shall be so stored as to make it convenient to label or identify each lot in case of its rejection or the necessity for further tests. Cement kept in storage several months may be subjected to repeated tests, if required.

Should the Contractor so elect, he may secure cement from previously tested lots in the stock of a supply dealer, provided the packages are properly labeled for identification, or he may furnish cement which has been tested at the mill and certified to by a reputable testing bureau acceptable to the Engineer, provided the cement is delivered under seal. The Engineer reserves the right to retest such cement and reject the same, if it fails to pass the required tests.

The use of cement which has not been tested or which has failed to pass the above tests is prohibited.

Sand used for concrete shall be clean and sharp, free from organic matter, and shall not contain more than five (5) per cent by volume of clay and loam and no clay shall be artificially added, and all material shall be acceptable to the Engineer. The sand shall be a well graded material, containing no particles larger than one-quarter ($\frac{1}{4}$) inch in diameter and not more than three (3) per cent of fine material shall pass a standard sieve with one hundred (100) meshes to the inch.

Portland Cement and sand mixed in the proportion of 1 to 3 to form a mortar, shall show a tensile strength of at least ninety (90) per cent of the tensile strength of 1 to 3 mortar made up of the same cement and standard Ottawa sand.

Coarse Aggregate for concrete shall consist of crushed stone or clean washed gravel; whether of crushed stone or of gravel, it shall be free from seamy or scaly material, shale, soapstone, loam or dirt, and must be substantially equal in hardness and durability to sound native blue limestone.

All coarse aggregate shall be well graded material, with the proper proportions of the various size pieces varying from the minimum diameter of one-quarter ($\frac{1}{4}$) inch in all cases, to the maximum diameter allowable for the different classes of concrete and the varying conditions of the work. In every case the coarse aggregate shall be thoroughly screened free from all material which will pass a wire sieve of one-quarter ($\frac{1}{4}$) inch square holes. The maximum size will vary from three-quarters ($\frac{3}{4}$) inch to one and one-half ($1\frac{1}{2}$) inch for Class 1 concrete; from one (1) inch to two and one-half ($2\frac{1}{2}$) inches for Class 2 and Class 3 concrete. The maximum size to be used for each particular piece of work will be specially specified in each case.

Water used in the mixing of the concrete or mortar or for wetting concrete or brick shall be clean, and free from oil, acid, strong alkalies, vegetable matter, or sewage.

Classification.—Concrete will be divided into three classes, which will differ in the proportions by volume of cement, sand and stone or gravel as follows:

Class 1.—Consisting of one (1) part cement, two (2) parts sand and four (4) parts stone or gravel.

Class 2.—Consisting of one (1) part cement, two and one-half ($2\frac{1}{2}$) parts sand and five (5) parts stone or gravel.

Class 3.—Consisting of one (1) part cement, three (3) parts sand and six (6) parts stone or gravel.

Proportioning.—The concrete shall be composed of Portland cement, sand and crushed stone or gravel, mixed with clean water in the proportions specified. All proportioning of materials must be done by means of a carefully gauged wheelbarrow or other apparatus of capacity which shall be determined by the Engineer. The method of measuring shall be one which will insure uniformity at all times in all measurements of proportions. A sack of cement weighing not less than 94 pounds shall be considered to have a volume of one (1) cubic foot.

Mixing.—The ingredients shall be thoroughly mixed in approved batch mixers. The use of continuous mixers will not be allowed.

Concrete is not to be mixed by hand, except by special permission, and then only on watertight platforms. The batches so mixed shall not exceed one cubic yard each. The measured cement shall be spread over the proper amount of sand on the platform, and shall be thoroughly mixed dry until an even color. Sufficient water shall then be added while this mixing is continued until a mortar of proper consistency and uniform texture is produced. The measured quantity of stone, having been previously wet, shall then be distributed evenly over the mortar and the whole turned over three (3) times, during which operation more water will be added by sprinkling until of the proper consistency.

Retempering, or mixing additional water with mortar or concrete that has partially set, will not be permitted.

Consistency.—The materials shall, unless otherwise ordered, be mixed wet enough to produce concrete of a consistency which will flush readily under light tamping, which can be handled without causing a separation of the coarse aggregates from the mortar and which will not creep or sag out of place when deposited and lightly tamped.

Placing and Finish.—Immediately after mixing, the concrete shall be transported rapidly without loss of mortar to the place of final deposit, and for mass work shall be spread in approximately six (6) inch layers. The use of concrete that shall have undergone initial set will not be permitted.

In placing, all concrete must be joggled or tamped sufficiently to expel air and to make the mortar flush to the surface. Where forms are used, the concrete forming exposed faces shall be spaded sufficiently to prevent honey-combing.

Working or walking on green concrete will not be allowed. Such concrete shall be sprinkled or protected from the weather if deemed necessary. Concreting in freezing weather will not be allowed without special permit therefor.

Special finishes for concrete surfaces will be specified as required.

For Pavement Base.—The top of the concrete must be brought, by means of screeds or templates, to a grade which shall not depart more than one-quarter

($\frac{1}{4}$) inch from a grade exactly parallel and at the proper depth below the finished surface of the pavement.

In the case of asphalt and bitulithic pavements the surface of the concrete shall be roughened by tampers with lugs or other approved methods, to obviate the liability of shoving of the pavement.

No hauling of any kind will be allowed on the concrete base until eight days after laying or longer, if the Engineer so directs. In the case of brick, wood block and granite streets, the paving may proceed after the elapse of such period, not less than 72 hours, as the Engineer may prescribe, but the sand and cement for the cushion must be got onto the work without hauling over the concrete.

Where street railway tracks are being laid or relaid, the Street Railway Company will furnish and place concrete up to the required sub-grade of the street. In cases where the old concrete base is being re-concreted the Street Railway Company will bring the concrete to the top of the ties.

Concreting Over Old Base.—This applies only to such work where it is the intent of the City to utilize for the proposed new pavement, the existing concrete base with such additional concrete applied, as specified below. Such intent will be stated in a synopsis of the proposed work given elsewhere in these specifications.

In these cases, the existing concrete base will not be disturbed except where necessary to lay drain pipe, water pipe, conduits, street railway tracks, set new curbs or reset old curbs and perform any other underground work ordered by the City.

Where new tracks are to be laid the Traction Company will, after the installation of their tracks, bring their concrete level with top of the ties. All other trenches and openings made in the old concrete base shall be re-concreted by the Contractor, who shall also apply a layer of concrete to the entire area between curb sufficient to form a paving base — inches below and parallel to the proposed finished surface of the roadway, but before placing the concrete the Contractor shall see that all cuts through the old base are dug out to the full depth of six (6) inches and to the full size, and shall thoroughly clean off the old concrete base by the use of brooms and hose.

Concrete placed by the Contractor will be measured and paid for in accordance with the following:

1st—For re-concreting of trenches over sewers, drain pipes and water pipes laid under this contract; allowance will be made for the full widths and lengths of the trenches by a depth of six (6) inches. This concrete will be paid for at the price bid under Item —.

2nd—Where new curbs are set or old curbs are reset, allowance will be made for a width of six (6) inches by a depth of six (6) inches. This concrete will be paid for at the price bid under Item —.

3rd—Where larger radii corners are installed or roadway otherwise widened, allowance will be made for actual widened area by a depth of — (—) inches. This concrete also will be paid for at the price bid under Item —.

4th—For cuts other than those above specified, allowance will be made for actual area by a depth of six (6) inches, but this concrete will not be included in the work to be paid for under this contract, but will be paid for directly by the Street and Sewer Repair Department at the uniform price of \$6.00 per cubic yard.

5th—In addition to the above the Contractor will be paid at the price bid under Item — for a layer of concrete over the entire pavement area of the depth necessary for the required paving surface, as previously specified.

Payment.—The amount of concrete to be paid for will be that actually placed in accordance with orders. The price per cubic yard will include all forms, work and material necessary or incidental to furnishing and placing the finished concrete as specified.

CONCRETE MASONRY—ITEM 33

The concrete to be used for masonry walls or other special structures as ordered shall be of the class designated and shall conform to the respective specifications therefor under the head of "Concrete" Items 30, 31, 32.

Proportioning and Mixing.—Proportioning and mixing shall conform to the respective specifications therefor under head of "Concrete" Items 30, 31, 32.

Consistency.—The material shall, in all cases, unless otherwise ordered, be mixed wet enough to produce a concrete that will flow readily which can be handled without causing a separation of the coarse aggregates from the mortar.

Placing.—After mixing, the concrete shall be deposited in place immediately. No retempering will be allowed, and concrete which has not been placed within 30 minutes after mixing shall be rejected and removed from the work. Concrete shall be deposited as nearly as possible in its final position. Rehandling of concrete after it has been deposited within the forms shall not be permitted. The concrete shall in no case be dumped or dropped from any great height. Each batch of concrete shall be spread in layers not exceeding four (4) inches in thickness. As soon as one layer is completed the next layer above must be started at once, and the work continued without interruption. As far as possible, the work shall be monolithic. Concrete shall be placed as continuous work between such planes and elevations as the Engineer may direct. When another layer of concrete is placed on one that has already set, the surface of the old concrete must be cleaned of all loose material, then roughened, wetted, and slushed with neat cement, before placing the new layer; or the bond shall be made by the acid or other approved process, if so directed by the Engineer. When it is necessary to make a joint in monolithic concrete, it shall be made by means of a stop-board placed in a vertical position and containing a key on the side next the concrete first placed. When the stop-boards are removed, the bond shall be made as above described. No tapered or wedge-shaped slope shall be used. Care must be taken to avoid getting dirt or other foreign matter on concrete surfaces on which other concrete is to be placed, or which has not set. At all stages of the work concrete and mortar must be kept entirely free from dirt of all kind, and if unavoidably mixed with dirt, shall be removed and replaced to the entire satisfaction of the Engineer.

Ramming.—Rammers for use with wet concrete shall be composed of thin blades of steel or iron, about four (4) inches wide. With these the concrete shall be thoroughly spaded and churned to remove all entrained air, and the concrete shall be pushed in forms and into all small openings. Ramming drier mixtures shall be thoroughly done with rammers of such shape and weight as directed, but in no case shall the concrete be mixed dry enough to require very heavy rammers.

Finish.—This shall be done by careful spading and puddling the plastic concrete for which special tools shall be provided. This must be done with great care that subsequent amount of pointing necessary will be a minimum. Immediately after the forms have been removed, chip off any ridges due to cracks and joints in the lumber, and point the surface with mortar of same proportions as that used for concrete until it is even and smooth. All surfaces must present a neat, even and smooth appearance, satisfactory to the Engineer, such appearance to be obtained by rubbing with a carborundum brick if deemed necessary by the Engineer.

Forms.—All forms for moulded concrete work shall be constructed of sufficient strength to obtain the necessary rigidity to prevent any motion of the forms while concrete is being placed, and must be strong enough to carry any load which may come upon the concrete within thirty (30) days from the date of placing the concrete. Before work is commenced the Contractor shall submit detail plans of the method of constructing forms to the Engineer, but the submitting of such plans will not relieve the Contractor of any responsibility should any fault appear during the construction.

Forms shall, in general, be composed of tongue and grooved sheeting if $\frac{3}{8}$ -inch sheetings is used, or carefully matched stuff if heavier sheeting is used. Each plank must be of uniform width, fastened to the studding in true horizontal lines, ends and edges being carefully butted together. They must be as nearly as possible water-tight, and must be surfaced on the side next the concrete for all surfaces which will be exposed in the finished work.

Planking once used in forms shall be cleaned before using again. Deformed, broken or defective forms shall be removed from the work. Forms shall be constructed by experienced and capable workmen only, and must be true to line and grade. They shall be substantial and unyielding, of exact dimensions for the structure to be built, and of first-class workmanship throughout. The frame or studding must be properly braced or tied together by means of wire or rods.

The surfaces next the concrete will be oiled just after being built and oiled again just previous to placing the concrete. Forms used a second time must be carefully cleaned and oiled again. The oil to be used shall be paraffine oil, thick and heavy enough to act as a filler.

Forms must be kept moist to prevent shrinkage, as directed by the Engineer. All forms shall be so constructed as to be readily cleaned. Great care must be taken to clean sawdust, dirt or debris from the forms just before placing the concrete, and whenever necessary forms must be cleaned out with steam-jet or equally effective means satisfactory to the Engineer. Forms shall not be removed from the concrete in less than ——— (—) days. No forms whatever will be removed at any time without first notifying the Engineer, and he may increase the time for forms to remain in place if deemed necessary. The notification given the Engineer shall not be considered to relieve the Contractor of full responsibility for the construction and removal of forms.

All forms must be so designed so that they may be removed without damage to the concrete.

All projecting wires and bolts, or other devices that may be used for holding the forms in place and that pass through the concrete, must be cut off at least one inch beneath the finished surface and the ends covered with cement mortar of same mix as used in the body of the work.

The Contractor shall furnish a sufficient number of forms so that the work can be prosecuted rapidly, and if at any time the work is not proceeding at a rate sufficient, in the opinion of the Engineer, to complete the work in a reasonable time, a greater number of forms shall be constructed if required. If the Contractor desires, he may use steel forms in place of wood forms. Steel forms must meet the approval of the Engineer.

Weep holes and expansion joints shall be provided as ordered. All walls or other special structures shall be constructed as shown on the plans or ordered.

Payment.—The concrete masonry will be paid for by the cubic yard, as provided for under "Concrete," Items 30, 31 and 32, except that in measuring the volume no deduction will be made for weep holes.

REINFORCED CONCRETE—ITEM 34

Reinforced concrete will consist of Class 1 concrete, as specified under the head of "Concrete," Item 30, with reinforcing steel, as shown on the plans or as specified.

Proportioning and Mixing.—Proportioning and mixing shall conform to the respective specifications therefor under head of "Concrete," Items 30, 31 and 32.

Consistency.—The material shall, in all cases, unless otherwise ordered, be mixed wet enough to produce a concrete that will flow readily which can be handled without causing a separation of the coarse aggregates from the mortar.

Placing.—After mixing, the concrete shall be deposited in place immediately. No retempering will be allowed, and concrete which has not been placed within 30 minutes after mixing shall be rejected and removed from the work. Concrete shall be deposited as nearly as possible in its final position. Rehandling of concrete after it has been deposited within the forms shall not be permitted. The concrete shall in no case be dumped or dropped from any great height. Each batch of concrete shall be spread in layers not exceeding four (4) inches in thickness. As soon as one layer is completed the next layer above must be started at once, and the work continued without interruption. As far as possible, the work shall be monolithic. Concrete shall be placed as continuous work between such planes and elevations as the Engineer may direct. When another layer of concrete is placed on one that has already set, the surface of the old concrete must be cleaned of all loose material then roughened, wetted

and slushed with neat cement, before placing the new layer; or the bond shall be made by the acid or other approved process, if so directed by the Engineer. When it is necessary to make a joint in monolithic concrete, it shall be made in the middle of a panel at right angles to the beam and by means of a stop-board placed in a vertical position and containing a key on the side next the concrete first placed. Extra twisted or deformed bars shall be placed as directed by the Engineer, to tie old and new work together. When the stop boards are removed, the bond shall be made as above described. No tapered or wedge-shaped slope shall be used. Care must be taken to avoid getting dirt or other foreign matter on concrete surfaces on which other concrete is to be placed, or which has not set. At all stages of the work concrete and mortar must be kept entirely free from dirt of all kind, and if unavoidably mixed with dirt, shall be removed and replaced to the entire satisfaction of the Engineer.

Ramming.—Rammers for use with wet concrete shall be composed of thin blades of steel or iron, about four (4) inches wide. With these the concrete shall be thoroughly spaded and churned to remove all entrained air, and the concrete shall be pushed under and around all bars, corners and obstructions in forms and into all small openings. Care shall be taken in ramming not to displace any bars in forms. Ramming drier mixtures shall be thoroughly done with rammers of such shape and weight as directed, but in no case shall the concrete be mixed dry enough to require very heavy rammers.

Concrete in Freezing and Inclement Weather.—No concrete shall be laid in freezing or inclement weather except by special arrangements with and under the supervision of the Engineer. In case it becomes necessary to lay concrete in freezing weather, special arrangements must be made for heating all materials and maintaining a temperature around the concrete in place which will not allow the concrete to freeze until the same has set. Should any concrete show evidence of being damaged by low temperature, it shall be removed and replaced.

Protection of Concrete.—Whenever required the surface of the concrete shall be suitably protected from cold or frost, but such protection shall not insure the acceptance of the concrete, should it appear to be damaged.

Concrete must be kept moist for one week after depositing; in dry, hot weather it shall be kept covered from exposure to the sun during this time, or else must be constantly sprinkled during the day by a workman especially detailed for this work.

Bonding New Concrete to Old Concrete.—Wherever new concrete is to be joined to old concrete or to concrete already set it shall be done by either of the following methods, as specified:

(1) Bonding new concrete to concrete already set by the Acid Process shall be done as follows:

Thoroughly wash the surface of the concrete with water and then sweep the same from the surface, then cover the surface with diluted muriatic acid in proportions of one part of concentrated acid and three parts of water; allow this to remain until all effervescence has ceased; then flush off entirely with water and sweep clean. A thin coat of neat cement grout of the consistency of thick cream is to be thoroughly spread over the surface immediately after flushing; then spread the new concrete or mortar on the surface thus prepared.

(2) Wherever the specifications shall call for the use of a bonding compound in bonding new concrete to concrete which has taken its permanent set, the bonding compound shall be of approved quality and shall be thoroughly mixed with the new concrete in sufficient quantities to insure good bond between the old and new concrete. Before using such bonding compound the name of the brand and the proportion in which it is to be mixed with the cement shall be submitted to the Engineer and approved by him.

Finish.—This shall be done by careful spading and puddling the plastic concrete for which special tools shall be provided. This must be done with great care that subsequent amount of pointing necessary will be a minimum. Immediately after the forms have been removed, chip off any ridges due to cracks and joints in the lumber, and point the surface with mortar of same proportions as that used for concrete until it is even and smooth. All surfaces must present a neat, even and smooth appearance, satisfactory to the Engineer, such appearance

to be obtained by rubbing with a carborundum brick if deemed necessary by the Engineer.

Forms.—All forms for moulded concrete work shall be constructed of sufficient strength to obtain the necessary rigidity to prevent any motion of the forms while concrete is being placed, and must be strong enough to carry any load which may come upon the concrete within thirty (30) days from the date of placing the concrete. Before work is commenced the Contractor shall submit detail plans of the method of constructing forms to the Engineer, but the submitting of such plans will not relieve the Contractor of any responsibility should any fault appear during the construction.

Forms shall, in general, be composed of tongue and grooved sheeting if $\frac{3}{8}$ -inch sheetings is used, or carefully matched stuff if heavier sheeting is used. Each plank must be of uniform width, fastened to the studding in true horizontal lines, ends and edges being carefully butted together. They must be as nearly as possible water-tight, and must be surfaced on the side next the concrete for all surfaces which will be exposed in the finished work.

Planking once used in forms shall be cleaned before using again. Deformed, broken or defective forms shall be removed from the work. Forms shall be constructed by experienced and capable workmen only, and must be true to line and grade. They shall be substantial and unyielding, of exact dimensions for the structure to be built, and of first-class workmanship throughout. The frame or studding must be properly braced or tied together by means of wire or rods.

The surfaces next the concrete will be oiled just after being built and oiled again just previous to placing the concrete. Forms used a second time must be carefully cleaned and oiled again. The oil to be used shall be paraffine oil, thick and heavy enough to act as a filler.

Forms must be kept moist to prevent shrinkage, as directed by the Engineer. All forms shall be so constructed as to be readily cleaned. Great care must be taken to clean sawdust, dirt or debris from the forms just before placing the concrete, and whenever necessary forms must be cleaned out with steam-jet or equally effective means satisfactory to the Engineer. Forms shall, in general, not be removed from the concrete in less than seven (7) days for columns and beam sides, ten (10) days for slab forms, and twenty-one (21) days for beam and girder bottoms, except in the case of vertical surfaces which do not carry loads. The above limits apply to work done in warm weather, from April 1 to December 1. For work done in winter, from December 1 to April 1, forms shall not be removed in less than one and one-half ($1\frac{1}{2}$) the time as specified above. No forms whatever will be removed at any time without first notifying the Engineer, and he may increase the time for forms to remain in place if deemed necessary. The notification given the Engineer shall not be considered to relieve the Contractor of full responsibility for the construction and removal of forms.

Wherever practical, edges of beams, girders and columns will be chamfered and a "V"-shaped strip placed in all corners. All forms must be so designed so that they may be removed without damage to the concrete.

All projecting wires and bolts, or other devices that may be used for holding the forms in place and that pass through the concrete, must be cut off at least one inch beneath the finished surface and the ends covered with cement mortar of same mix as used in the body of the work.

The Contractor shall furnish a sufficient number of forms so that the work can be prosecuted rapidly, and if at any time the work is not proceeding at a rate sufficient, in the opinion of the Engineer, to complete the work in a reasonable time, a greater number of forms shall be constructed if required. If the Contractor desires, he may use steel forms in place of wood forms. Steel forms must meet the approval of the Engineer.

Placing Steel Reinforcement.—The Contractor shall furnish and imbed in the concrete square, cold-twisted bars, or deformed bars of equal net area approved by the Engineer, or plain bars of number and size shown on plans and located as shown or as directed by the Engineer. The detailed drawings show all the main reinforcement, but any minor reinforcement not shown shall be furnished and placed where considered necessary by the Engineer, without extra charge. Square twisted bars or deformed bars are to be used for all tensile reinforcement;

plain square bars for hoops and "U" bars, and plain round bars for the arch reinforcement.

All steel in girders, beams, columns and walls shall be imbedded in the concrete not less than one and one-half ($1\frac{1}{2}$) inches, in slabs not less than three-quarter ($\frac{3}{4}$) inch, and in the bottom of footing not less than three (3) inches.

Rods or bars shall be thoroughly cleaned of all kinds of dirt and scale or excessive rust, and shall be free from oil or paint. In placing bars the directions of the Engineer in regard to spacing and position in the cross-section of the concrete, for lengths, wiring, bending, etc., shall be strictly followed. Detailed drawings or other detailed information of bending and copies of steel lists shall be furnished the Engineer for approval before the work commences. Bars shall be wired together at each intersection with suitable wire ties to keep the bars in correct position, and shall be braced so as not to be displaced by their being sprung out of position or under the necessary tamping or ramming of the concrete. Special spacers and supports shall be provided to support bars in beams and girders.

Horizontal bars shall be of single length between supports. All bars in top of beams, girders and slabs over supports shall extend back from the face of the support a distance of at least 40 diameters of the bar, and in the bottom a distance of at least 20 diameters, but in no case less than 12 inches. The ends of the bars shall be bent into the form of a hook and a stub inserted in the hook if the full grip, as specified, can not be obtained. Wherever splices occur in any other manner the bars must be lapped at least 40 diameters of the bars, but never less than 12 inches.

Steel Reinforcement.—Steel used as reinforcement in concrete shall meet all the requirements of the Manufacturers' Standard Specifications for concrete reinforcement bars rolled from steel billets, as adopted in 1910, revised in 1912, with all subsequent amendments thereto.

Upon requests by the Engineer, he shall be furnished for testing purposes such samples of steel reinforcement as he shall select from material to be used on contract work.

All steel reinforcement shall be free from excessive rust, loose scale, or other coatings of any character which would reduce or destroy its bond with the concrete.

No separate payment will be made for steel reinforcement, but the Contractor shall include its cost in his bid for Reinforced Concrete.

RUBBLE CONCRETE MASONRY—ITEM 35

Rubble Concrete masonry will consist of Class III. Concrete, as specified under "Concrete," Item 32, in which are firmly imbedded rubble stones to an extent of not over one-half ($\frac{1}{2}$) the volume of the wall. The rubble stones must be clean, sound, hard stone not over two cubic feet in volume each, nor less than one-half ($\frac{1}{2}$) cubic foot. The rubble stones shall be at least four (4) inches apart and with no points thereof closer than four (4) inches to any face of the wall. The resulting masonry must be solid and free from voids. In all other respects the specifications and manner of payment of "Concrete Masonry," Item 33 shall govern.

BRICK MASONRY—ITEM 36

Materials.—Common brick shall be clay or shale brick, sound, hard, thoroughly and evenly burned, of close texture, uniform in shape and size, and free from warps, cracks, or other defects. Dried brick broken in two and immersed in water for twenty-four (24) hours shall show an increase of not less than two (2) per cent. nor more than twelve (12) per cent. of the dry weight.

Vitrified brick shall be clay or shale brick, smooth, sound, hard, tough, of close texture, vitrified throughout, uniform in shape and size, with sharp edges and free from warps, cracks, and other defects. Dried brick broken in two and immersed in water for twenty-four (24) hours shall not show an increase of more than two (2) per cent. of the dry weight.

Mortar, unless otherwise specified, shall be made of one part by measure of Portland Cement and two and one-half ($2\frac{1}{2}$) parts clean, coarse sand with sufficient water, well mixed to make a stiff paste. The cement must conform to the requirements specified under Items 30, 31, 32. All mortar must be mixed

in suitable water-tight boxes. Retempering or mixing additional water with mortar which has partially set will not be permitted.

Unless otherwise specified on the drawings, brick masonry shall consist of common brick. The brick shall be wetted, freed from dirt and frost, and laid truly horizontal with close mortar-filled "push" joints. Care shall be taken to "break" joints and to thoroughly bond the work. The use of bats, except to effect closures or fill interstices, is prohibited.

Brick masonry shall not be laid in water, nor shall water be permitted to come in contact with such work until the masonry shall have set hard. It shall be protected from the weather and all disturbance, and kept well moistened until set hard.

In bonding new masonry to old, the old brick work shall be toothed and surfaces cleaned of dirt, grease and surplus mortar. In leaving unfinished work for the day, the masonry shall be racked back and left clear of surplus mortar.

Joints for exposed faces shall not exceed one-quarter ($\frac{1}{4}$) inch in width and shall be carefully pointed except where the surfaces are to be plastered or unless herein otherwise specified.

Surfaces of brick masonry which are to be plastered shall be thoroughly cleaned and wetted. Plaster shall be applied before the masonry has set, and shall receive a smooth, dense trowel finish.

Forms or centers shall be true to dimensions, clean, rigid, and braced to prevent deflection. The details of construction of the forms and bracing shall be such as to insure removal without jar or injury to the brick masonry and to offer to the workmen adequate space in which to lay up the brick work.

Forms or centers shall be left in place until removal is permitted by the Engineer.

Within a range of temperature of from 20° F. to 32° F., brick masonry may be placed, provided the materials be satisfactorily heated and the masonry kept warm and protected in a manner acceptable to the Engineer. When the temperature falls below 20° F. the laying of brick will not be permitted under any conditions.

Measurements.—Payments will be made for the masonry actually placed in accordance with the lines shown on the drawings or as established by the Engineer.

Payment.—The price bid for this item shall include the furnishing of all labor and materials, all excavating, sheeting and bracing, draining, the furnishing and placing of vitrified brick where required, backfilling, embankment, and cleaning up. Work called for under this item includes all brick masonry not specifically mentioned as paid for under other items.

GRANITE CURBING—ITEMS 37 and 38

Granite.—Granite curbing shall be of the best quality of granite, gneiss, or syenite, of uniform grain and texture, free from excess of mica, and showing an even distribution of constituent materials.

Samples.—Before accepting the material from any quarry, the operator thereof shall file in the office of the Engineer a representative sample of the curbing proposed to be furnished. This sample shall be twelve (12) inches long, of the quality, dimensions and dressing specified and must be labeled with the name of the operator and the name and location of the quarry or quarries. If this sample is acceptable, all curbing furnished must be substantially equal to it in all respects. The bidder must state in his proposal the name and location of the quarry or quarries from which he proposes to obtain his curbing. No change of quarry or quarries will be permitted without the consent of the Engineer.

Dimensions and Dressing.—The minimum length of curbing shall be five (5) feet except for closures, or for curved corners, where the length will be as ordered. The bottom length shall be not less than nine-tenths of the top length. The depth of the curbing will be sixteen (16) inches with an allowable variation of not over one (1) inch either way. The curbing shall be uniformly five (5) inches thick on top between neat lines; elsewhere the thickness shall be not less than four (4) nor more than seven (7) inches at any point. The base of

the curb must be at right angles to the face and must be of the full required thickness.

The top will be dressed with a rise of one-quarter ($\frac{1}{4}$) inch from face to back. The front edge will be dressed to a curve of one-half ($\frac{1}{2}$) inch radius; the back edge will be neatly pitched to a line parallel to front edge. The top and face of curb for a depth of eight (8) inches shall be out of wind and shall be axed or pean hammer dressed to show no variation from a straight edge placed on the surface exceeding one-eighth ($\frac{1}{8}$) inch. Below the eight (8) inches the face shall show no variation exceeding three-quarter ($\frac{3}{4}$) inch. The ends will be squared and dressed so as to afford close joints not exceeding one-quarter ($\frac{1}{4}$) inch for a distance of ten (10) inches from the top of the curb.

Circular Curbs.—At intersections and angles circular curbs will be used. Circular curbs will conform in dressing and cross section to the requirements for straight curbs, but the joints are to be cut radially. The radii and lengths will be as shown on the plans or ordered.

Setting.—After the subgrade of the street is approximately established the curbing shall be set with the face vertical, true to line and grade.

The curb trench will be excavated to a depth of twenty-two (22) inches from the top of the curb to a width of ten (10) inches back from the face of the curb; the curbing will be set on two (2) mounds of soft concrete about six (6) inches high, or on two (2) stone blocks six (6) inches thick and not over nine (9) inches square and then tamped to line and grade. The balance of the space under the curb will be filled with concrete, well tamped to afford a solid bearing. Additional concrete will then be deposited back of the curb to a depth of eight (8) inches and will be well tamped and spaded. After the concrete has set, the remaining space to the top of the curb will be filled with fine earth well tamped. Class III Concrete will be used for curb setting.

Where driveways exist or are desired, the Contractor will set the curbs to such grade below the adjoining curbs as the Engineer may direct; he will also neatly round off the projecting ends of the adjoining curbs. This work will be done without special compensation.

Where cement sidewalks are injured or disturbed by the curb setting they must be restored by the Contractor without special compensation. In such cases, the existing cement walks shall be neatly cut off on a line nine (9) inches back from the back of the curb and new work conforming in all respects to the requirements for cement walks will be constructed. In case, however, the curb is set to a line or grade different from those of the old curbs, so that a partial reconstruction of the walk is required, such reconstruction will be paid for at the price bid for cement walks; in all such cases a width of nine (9) inches will be deducted from the amount to be paid for.

Existing brick or other walks will also be restored in a neat and workmanlike manner without special pay.

Payment.—All curbing both straight and circular as shown on the plans will be paid for at the price bid per lineal foot. The price will include furnishing the curbing, all concrete or gravel for bedding and packing, all excavation and all other work or materials necessary to complete the work specified under this item.

CURB RESET AND REDRESSED—ITEM 39

On Gravel.—Under this item the Contractor shall reset to the proper line and grade such portions of the old curbing as ordered. If necessary, the ends shall be redressed so as to make a joint not exceeding one-quarter ($\frac{1}{4}$) inch for a depth of ten (10) inches from the top. The curbs shall be reset on at least two (2) inches of well-packed gravel and the filling behind the curb shall be thoroughly rammed. All sidewalks disturbed by resetting curbs shall be repaired in the same manner and to the same extent as provided for new granite curbs.

The price bid per lineal foot shall include all work as above specified.

On Concrete.—Under this item the Contractor shall reset to the proper line and grade such portions of the old curbing as ordered. If necessary, the ends shall be redressed so as to make a joint not exceeding one-quarter ($\frac{1}{4}$) inch for a depth of ten (10) inches from the top. The curbs shall be reset on two (2) mounds or soft concrete about six (6) inches high, or on two (2) stone blocks

six (6) inches thick and not over nine (9) inches square and then tamped to line and grade. The balance of the space under the curb will be filled with concrete, well tamped to afford a solid bearing. Additional concrete will then be deposited back of the curb to a depth of eight (8) inches and will be well tamped and spaded. After the concrete has set, the balance of the space to the top of the curb will be filled with fine earth well tamped. Class III Concrete will be used for curb setting.

Payment.—The price bid per lineal foot shall include all work and material necessary for the resetting and redressing of the curb as above specified.

STEEL PROTECTION PLATE—ITEM 40

Steel protection plates for the curb will be five (5) inches deep and three-eighths ($\frac{3}{8}$) inches thick, with the top nosed off to a three-eighths ($\frac{3}{8}$) inch radius. They will be anchored to the walks by means of a five-sixteenth ($\frac{5}{16}$) inch slot headed bolt as shown on drawing accession [insert reference to specifications, etc.].

Payment.—The price bid per lineal foot will include all necessary labor and material for the performance of the work as specified above.

CONCRETE COMBINED CURB AND GUTTER—ITEM 41

The concrete combined curb and gutter will be constructed after the sub-grade is approximately established.

The trench will be excavated to a width of twenty-eight (28) inches, and to a depth of fourteen (14) inches below the top surface of the gutter. Clean, soft-coal cinders, free from fine ashes and with no clinkers exceeding two (2) inch size will be placed in the trench for the full width thereof, and will be thoroughly wetted and tamped and brought to grade six (6) inches below the proposed gutter surface. The combined curb and gutter will be constructed on this foundation in rigid forms of proper shape and size. Thin metal plates will be used to divide the curb and gutter into approximately 6-foot sections. These plates are to be withdrawn after the concrete has set.

The curb shall be seven (7) inches thick and have a six-inch vertical face, though this latter may be varied if deemed necessary; the gutter shall be six (6) inches thick and have a sixteen (16) inch exposed face. The rear edge of the curb and the outside edge of the gutter shall be rounded to a one-quarter ($\frac{1}{4}$) inch radius; the front edge of the curb and the junction of the curb and gutter shall be finished with a one (1) inch radius. The face of the curb shall be vertical and the gutter will have a rise of one and one-half ($1\frac{1}{2}$) inches from curb to outside edge.

The body of the curb and gutter will consist of Class I concrete. The concrete shall be well spaded and tamped, and must be free from honey-combing; sufficient water must be used in mixing to insure this result. The exposed faces of the curb and the gutter will be finished with a one-half ($\frac{1}{2}$) inch surfacing of Portland Cement mortar composed of one part cement and one part clean, sharp, coarse, washed bank sand. To secure proper bond the finish must be applied before the concrete has become too dry, and it must be smoothly trowled to grade and cross-section as described. A brush finish, using a neat cement grout, shall then be applied if considered necessary. The outside of the gutter must be well plastered and free from voids. After the concrete has set and the forms have been removed, the space behind the curb shall be filled with fine earth well tamped.

At driveways the curb and gutter will be constructed as ordered.

At intersecting streets the curb and gutter will be laid to radii shown on the plans.

The price bid per lineal foot for "Concrete Combined Curb and Gutter" shall include both straight and circular sections, and will be for the work complete as above specified, including all labor and materials. Sidewalks disturbed or injured will be repaired in the same manner and to the same extent as specified for "Granite Curb," Items 37 and 38; the work to be done without special compensation.

STEEL PROTECTED CONCRETE COMBINED CURB AND GUTTER—ITEM 42

This curb and gutter shall be constructed and paid for as provided under "Concrete Combined Curb and Gutter," Item 41, except that some approved form of steel protection securely anchored to the body of the curb shall be placed along the edge of the curb as directed. The price bid per lineal foot shall also include furnishing and placing of steel protection.

CONCRETE CURB—ITEM 43

Concrete curbs will be seven (7) inches thick by sixteen (16) inches deep, laid on a cinder bed six (6) inches thick and twelve (12) inches wide. The surface finish shall extend ten (10) inches down the face from the top. In other respects the specifications for "Concrete Combined Curb and Gutter," Item 41, will apply to "Concrete Curb" both in respect to material, workmanship and manner of payment.

STEEL PROTECTED CONCRETE CURB—ITEM 44

This curb shall be constructed and paid for as provided for "Concrete Curb" Item 43. Steel protection will consist of a plate $\frac{3}{8}$ " x 4" with upper outside corner rounded to a $\frac{3}{8}$ " radius, with anchors $\frac{1}{4}$ " x 2" in section, spaced not over three (3) feet apart, fastened to plates by counter sunk rivets and extending into curb not less than six (6) inches. Anchors shall be spaced so that end ones are not over four (4) inches from end of plates, and the shape of the anchors must be satisfactory to the Engineer. The price bid per lineal foot shall include furnishing and placing the steel protection.

INTEGRAL CONCRETE CURB—ITEM 45

Integral concrete curb shall be constructed as shown on contract drawings. The concrete for integral curbs shall be of the same materials and proportions as that required for Concrete Pavement Item 61. After striking off the concrete pavement, the concrete for that portion of the integral curbs above the gutter line shall be formed by the use of proper templates to the exact shape indicated on the contract drawing and immediately given a smooth finish and completed with the pavement to the point of stopping each day's work. It shall be finished in the same manner as prescribed under specifications for Concrete Combined Curb and Gutter, Item 41.

Payment.—The price bid per lineal foot shall be for shaping and finishing only, it being understood that the price bid for concrete pavement will include the external surface of the curb.

CONCRETE HEADERS—ITEM 46

Concrete headers will be used to retain the paving at such intersections as the Engineer directs. Such headers will consist of Class 1 concrete, and will be ——— inches wide and ——— inches deep. They will be finished on top as specified for concrete curb, and must conform to the exact crown of the roadway. They will be constructed in sections of about six (6) feet in length.

The price bid per lineal foot will include all work and materials specified.

FLAGGING RESET AND REDRESSED—ITEM 47

Under this item the Contractor shall reset such of the old cross-walks or gutter flagging as ordered. The stone shall be redressed to make one-half-inch joints and to remove badly rounded edges. The work shall conform substantially to the requirements for new work.

The price bid per lineal foot shall include the redressing, resetting and all work and materials incidental thereto.

BROKEN AND CRUSHED STONE—ITEM 48

Broken or crushed stone shall consist of fragments of clean, sound, hard limestone or equally good stone of the sizes ordered. The price bid per cubic yard shall be for the material in place. Where the stone is used for bringing the grade of the adjoining macadam to the grade of the new improvement, the price

shall also include all necessary sprinkling and rolling. Screenings used for such macadam will be classed and paid for as broken stone.

CEMENT WALKS—ITEM 49

The cinder foundation for sidewalks shall be eight (8) inches in thickness. On this foundation shall be laid a three (3) inch layer of concrete of Class II. The wearing surface shall consist of a one (1) inch layer of mortar composed of two (2) parts Portland cement and three (3) parts sand. The materials and workmanship throughout shall conform to the City's Standard Specifications for "Cement Walks."

The price bid per square foot shall include the necessary excavating below the finished sidewalk surface and the furnishing of all labor and material necessary to complete the sidewalk as specified.

STREET SIGNS—ITEM 50

Street signs shall be furnished and installed at such intersections as the Engineer designates. Street signs shall conform to [insert reference to specifications, etc.], on file in the office of the Chief Engineer and to the detailed specifications prepared by the Division of Structures which accompany this drawing.

The price bid shall be for the sign installed complete.

GALVANIZED IRON FENCE—ITEM 51

Galvanized Iron Fence will be installed on retaining walls where ordered by the Engineer. The fence shall be _____ inches high, with round pickets _____ inches in diameter, bowed on top and spaced _____ inches center to center. There will be two horizontal bars of channel iron of size and weight suitable for the size of pickets and brace posts specified. The brace posts will be _____ inches square, and will be spaced _____ feet apart. The fence shall be heavily galvanized throughout, shall be well manufactured and shall be firmly and strongly leaded into the wall and well braced. There will be _____ newel posts required with the fence. These posts will be _____ inches in diameter and of pattern satisfactory to the Engineer.

The price bid for Galvanized Iron Fence per lineal foot will include all work and material for installing the fence complete and will include the newel posts.

GALVANIZED HAND RAILING—ITEM 52

The galvanized iron hand rail will be built substantially in accordance with [insert reference to specifications, etc.].

EXTRA BINDER—ITEM 53

This item will constitute such asphaltic binder as may be required for filling pot holes or depressions in old pavement.

The asphaltic binder must comply in all respects to the specifications for same under Asphalt Pavement Item 54, and will be paid for by the cubic foot.

ASPHALT PAVEMENT—ITEM 54

Excepting where the estimated amount of asphalt paving to be done is less than 100 square yards, each bidder must submit with his bid a letter stating the commercial names (if any) and the proportion, nature and derivation of the refined asphalt and the flux he proposes to use.

Before the award of the contract, the successful bidder shall furnish for testing, samples of all materials to be used in the manufacture of the paving mixture. Should the material submitted be found unsatisfactory, then other samples must be furnished immediately. Failure to comply with this will be deemed cause for forfeiture of bidder's bond or deposit.

Satisfactory evidence if requested must be presented to the Director of Public Service that the bidder has been regularly engaged in the business of laying asphalt pavements or is reasonably familiar therewith and is fully prepared with the necessary capital, materials and machinery to conduct the work to be contracted for to the satisfaction of the Engineer.

General Description.—The subgrade for Asphalt Pavement will be _____ inches below and parallel to the finished grade of the roadway. On the subgrade, prepared as specified under "Grading," Item 1, will be deposited _____ inches of concrete as specified, the upper surface of which shall be compact and true, parallel to and 3 inches below the finished roadway grade. If deemed necessary by the Engineer, the surface of the concrete shall be roughened by tamping with toothed rammers or by other satisfactory means.

Upon the foundation thus prepared, shall be laid the pavement proper. This shall consist of:

1. A binder course, $1\frac{1}{2}$ inches in thickness when compressed.
2. An asphalt wearing surface, $1\frac{1}{2}$ inches in thickness when compressed.

Samples.—Samples of the refined asphalt, petroleum flux, asphalt cement, sand, filler, and binder stone that the Contractor proposes to use in his work, together with a statement as to the source and character of these materials, shall be submitted to the Engineer at any time that he may so request. No materials other than those specified in his bid shall be used, except with the written consent of the Engineer. Other samples taken from and actually representative of the shipments received shall be submitted to the Engineer at least two weeks before the work begins; also, during the course of the work all shipments of new materials be used without having been examined and approved by the Engineer. The Contractor shall furnish the Engineer or his authorized inspector all facilities for the sampling of materials.

Methods of Testing.—All tests of materials must be conducted according to the official methods on file in the office of the Engineer. The Contractor must provide a suitable room at the plant in which an inspector, appointed by the Engineer, can carry out all chemical and physical tests required to keep the process of manufacture under proper control.

Refined Asphalts.—The refined asphalts admitted under these specifications shall be prepared from any natural mineral bitumen, either solid or liquid, or from combinations thereof, by suitable and approved methods of refining. The preparation and refining of all asphalts shall be subject to such inspection at the paving plants and refineries as the Engineer may direct. Every refined asphalt admitted under these specifications shall be equal in quality to the recognized standard for its particular type or kind of asphalt. All refined asphalts must comply with the following requirements:

(A) All shipments of refined asphalt of any one kind shall be uniform in composition and consistency. The penetration of the material in any shipment shall not vary more than ten points.

(B) Asphalts obtained by the distillation of petroleum oils shall have a penetration of not less than 30 at 70° F.

(C) Ninety-eight and one-half per cent. of the total bitumen of all refined asphalts must be soluble in cold carbon tetrachloride.

(D) When made into an asphalt cement by the use of such materials and methods as described in these specifications, they must produce an asphalt cement complying with all the requirements elsewhere set forth herein for asphalt cements.

If desired, the Contractor may use an asphalt cement prepared at the refinery. To be acceptable, this asphalt cement must comply with the above requirements for refined asphalt, and must also comply with the requirements for asphalt cement as given below.

Fluxes.—Fluxes shall be the residuum obtained by the distillation of paraffine, semi-asphaltic, or asphaltic petroleum. They shall be of such character as to combine with the refined asphalt to be used to form an acceptable asphalt cement complying with all the requirements of these specifications. All fluxes must pass the following tests:

(A) They must have a penetration of more than 350° with a No. 2 needle at 77° F. under 50 grams weight for two seconds.

(B) The specific gravity at 60° F. shall be between 0.94 and 1.04.

(C) When 50 grams are heated in a tin box, $2\frac{1}{2}$ " in diameter and $1\frac{1}{2}$ " in height for 5 hours, at 325° F., they shall lose by volatilization not more than 5% by weight. The residue left after heating shall have a penetration greater than 200.

(D) They shall not flash below 350° F. when tested in a New York State closed oil tester.

(E) They shall be soluble in carbon tetrachloride to the extent of not less than 99 per cent.

Asphalt Cements.—The asphalt cement shall be composed of refined asphalt or asphalts, and flux, where flux is required, of the character specified elsewhere herein. The proper proportions of refined asphalt and flux shall be melted together and thoroughly agitated by suitable appliances until they are combined into a homogeneous asphalt cement. Under no circumstances shall asphalt cement be used which has had insufficient agitation. If the asphalt cement contains materials which will separate by subsidence while it is in a molten condition, means must be provided for constant agitation of the asphalt cement. The asphalt cement must never be heated to a temperature in excess of 350° F. For the purpose of recording temperatures in the asphalt kettles, recording pyrometers shall be provided as specified elsewhere herein. The methods of agitation must be of such a type as to cause no injury to the asphalt cement. The refined asphalt or asphalts and flux shall, when required, be weighed separately, in the presence of the authorized inspector of the Engineer. The asphalt cement shall comply with the following requirements:

(A) It shall be thoroughly homogeneous and the various bituminous ingredients contained in it shall be in a state of complete solution. It shall not be oily to the touch.

(B) It shall have a penetration of from 40 to 75 at 77° F. The Engineer will fix the penetration to be used upon any particular street, basing his judgment upon the traffic conditions and upon the character of the mineral aggregate and the asphalt cement.

(C) When 50 grams are heated in a tin box, 2¼" in diameter and 1½" in height for 5 hours, at a temperature of 350° F., it shall lose by volatilization, not more than 3 per cent. The residue, after heating, must have a penetration at least 50 per cent. of the penetration of the original sample.

(D) It shall not flash at less than 300° F. when tested in a New York State closed oil tester.

(E) Either the asphalt cement or its pure bitumen when made into a briquette (Dow mold) shall at 50 penetration (77° F.), have a ductility of not less than 20 centimeters at 77° F.; the two ends of the briquette should be pulled apart at the uniform rate of 5 centimeters per minute.

NOTE.—When the asphalt cement as used has a penetration greater than 50 at 77° F., an increased ductility of 2 cms. shall be required for every 5 points in penetration above 50 penetration.

Sand.—The sand used in the mineral aggregate shall be silicious, hard, moderately sharp, and free from clay, loam and mica, or other foreign matter. The sand shall not contain more than 5% of material which will pass a 200-mesh sieve, and it shall all pass an 8-mesh sieve. The grading and size of the sand shall be such that the sand, or sands, can be mixed so as to produce a mineral aggregate of the composition specified elsewhere herein. In the event that one sand will not give a grading suitable for the mineral aggregate, two or more sands shall be mixed in such proportions as are designated by the Engineer.

Filler.—The filler shall be a Portland cement or stone dust of sufficient density to weigh at least 90 pounds per cubic foot. At least 70% of the filler shall pass a 200-mesh sieve, and shall all pass a 50-mesh sieve. When five grams of the filler are thoroughly agitated with distilled water at 68°, by means of an air blast, not more than 40% shall subside on standing 15 seconds.

Crushed Stone.—The crushed stone used in the binder shall be a hard limestone, trap rock, or other approved rock, free from weathered or dirty particles and foreign matter. The stone shall crush with a cubical fracture. If the stone does not contain the proper amount of material passing the one-half-inch screen, the deficiency may be made up by the addition of gravel or sand. Ninety-five per cent. of the binder aggregate shall pass a screen having circular openings, whose diameter shall be three-quarters the thickness of the binder course to be laid. The remaining five per cent. shall not exceed in their largest dimensions the thickness of the binder course to be laid.

Binder.—The binder shall be composed of stone and sand, and asphalt cement of the character elsewhere herein specified and mixed in proper proportions. The stone, or stone and sand, and the asphalt cement shall be heated separately to such a temperature as will give, after mixing, a binder mixture of the proper temperature for the materials employed. The stone when used must be at a temperature between 225° and 350° F. The asphalt cement and stone shall be thoroughly mixed by machinery until a homogeneous mixture is produced, in which all the particles are thoroughly coated with asphalt cement.

Proportions.—The finished binder shall show upon analysis a bitumen content and mesh composition within the following limits:

Bitumen	4.5 to 7.0%
Passing 10-mesh sieve.....	15.0 to 30.0%
“ 4- “ “	20.0 to 35.0%
“ 2- “ “	35.0 to 50.0%
“ $\frac{3}{4}$ -inch mesh sieve.....	5.0 to 15.0%

Laying.—The binder mixture prepared in the manner above described shall be brought to the work in dump wagons covered with canvas or other suitable material, and upon reaching the street shall have a temperature between 200° F. and 325° F. The temperature of the binder mixture within these limits shall be regulated according to the temperature of the atmosphere and the working of the binder. On reaching the street it shall at once be dumped on the concrete and then be deposited roughly in place by means of hot shovels, after which it shall be uniformly spread by means of hot rakes, and then at once be thoroughly compacted with an 8-ton roller. The thickness of the finished binder shall average $1\frac{1}{2}$ inches and not more than a 30% variation from the average thickness specified will be permitted at any spot. The upper surface of the finished binder shall be parallel to the established grade for the finished pavement. The surface after compression shall show at no place an excess of asphalt cement, and any spot showing such excess shall be cut out and replaced with other material. All binder that shows lack of bond or that is in any way defective, or which may become broken up before it is covered with wearing surface, must be taken up and removed from the street and replaced by good material, properly made and laid in accordance with these specifications, at the expense of the Contractor. No more binder shall be laid at any one time than can be covered by one day's run of the paving plant on surface mixture. The binder, when laid, shall be followed and covered with wearing surface as soon as it is practicable in order to effect the most thorough bond between the binder and the wearing course. The binder course shall be kept as clean and as free from traffic as possible under working conditions. If necessary, it must be swept off immediately before laying the wearing surface on it.

No binder shall be laid when in the opinion of the Engineer the weather conditions are unsuitable or unless the concrete on which it is to be laid is dry and has set a sufficient length of time. The concrete base shall be swept thoroughly immediately before binder is laid.

SURFACE MIXTURE

Preparation.—The wearing surface shall be composed of sand filler and asphalt cement of the character elsewhere herein specified and mixed in the proper and definite proportions. When more than one kind of sand is used, each kind of sand shall be kept in a separate pile at the foot of the elevator, and the various sands shall be carefully fed into the elevator in definite and accurate proportions, such as may be required to produce a mineral aggregate of the composition desired.

The sand shall pass through a suitable drier which will heat the material to a temperature of from 300° to 400° F. The drier is to be of such construction that the various sands used shall be thoroughly mixed. Before being run into the storage bin, the heated aggregate shall pass through a suitable screen, which shall reject all material larger than that which will pass a 10-mesh sieve.

The sand, filler and asphalt cement shall all be weighed out in definite proportions. These proportions will depend upon the type of mixture desired, and

must be approved by the Engineer. The scales and weighing box must be satisfactory to the Engineer, and their accuracy will be subject to verification at such times as the Engineer may direct.

The mixing shall be done in such a way that a thoroughly homogeneous mixture shall be produced. The type of mixer, known as the "Twin-Pug Mill" shall be used. The sand will first be weighed out in a suitable weighing box, resting upon an approved scale, and from this weighing box shall be run into the mixer. The dust shall then be weighed and added cold, and finally, the asphalt cement, heated to a temperature of 275° to 350° F., shall be added. The materials shall then be mixed until every particle of the material aggregate is thoroughly coated with the asphalt cement. Proper mixing will require at least one minute.

Proportions.—The finished pavement shall show upon analysis a mesh composition and bitumen content within the following limits:

Bitumen	10.0 to 13.0%
Passing 200-mesh sieve.....	10.0 to 15.0%
" 100- " "	9.0 to 18.0%
" 80- " "	9.0 to 18.0%
" 50- " "	10.0 to 35.0%
" 40- " "	10.0 to 25.0%
" 30- " "	6.0 to 15.0%
" 20- " "	4.0 to 10.0%
" 10- " "	2.0 to 8.0%

The minimum amount of bitumen shall be used only in mixture containing the minimum total passing the 80-mesh sieve. The percentage of bitumen must be increased above the minimum as the total passing the 80-mesh is increased. On streets of very light traffic when the Engineer has approved the use of a coarser sand or mixture than that specified for general use, the surface mixture must contain not less than 6% of mineral matter passing a 200-mesh sieve, and not less than a combined total of 18% passing the 200, 100 and 80-mesh sieves. The maximum amount of 200, 100 and 80-mesh material will be regulated according to the kind of sand and asphalt used and the traffic upon the street on which the pavement is to be laid, subject to the maximum requirements elsewhere herein specified under sand and filler.

The above limits as to mesh composition and per cent. of bitumen are intended to provide for such permissible variations as may be rendered necessary by the raw materials used and by the character of the work to be done. The composition of the wearing surface may be varied within the limits above specified at the discretion of the Engineer.

Laying.—Before any top is laid, the concrete base must have been accepted by the Engineer. This acceptance will be given only when the concrete is thoroughly set and perfectly dry over the entire surface. Under no circumstances will top be laid on damp concrete or binder.

The surface mixture will be hauled to the street in dump wagons, which will be covered with suitable covers in order to protect the contents from loss in temperature. The loads shall have a temperature of from 225° to 350° F. upon reaching the street. The Engineer will determine the permissible range of temperature for each kind of asphalt used. All loads failing to fall within the permissible temperature are subject to rejection at the street. The mixture shall be dumped upon the base at some distance from point at which the material will be used. The mixture will then be shoveled into place and will be spread out by means of rakes. In raking, the mixture must be combed out thoroughly entirely down to the concrete, in order that the wearing surface may be of uniform density at all points. The surface shall be spread out to such a thickness that it will have the specified thickness after having received its final compression. The surface will then be rolled with a steam roller weighing not less than eight tons. It is permissible to smooth the surface with a lighter roller, but the final rolling must be done with a roller of the weight specified above. After the final rolling, the surface shall be dusted with cement or other mineral dust. The rolling must be continued at the rate of not more than 200 square yards per hour

until no more compression is obtainable and the surface is free from waves, roller marks and honeycombed spots.

Such portions of the completed pavement as are defective in finish, compression or composition, or that do not comply in all respects with the requirements of these specifications, shall be taken up entirely, removed and replaced with suitable material, properly made and laid in accordance with these specifications, at the expense of the contractor.

Where the width of the roadway will permit, the street is to be cross-rolled. Around manholes and other fixtures, where the roller can not reach, compression may be obtained by using hot iron tampers. All gutters and street fixtures must be painted with hot asphalt cement before the top is laid in order to secure proper adhesion at the joint and to prevent the entrance of water into the joint. Whenever ordered by the Engineer, a space twelve inches on the top of the finished pavement next to the curb shall be coated with asphalt cement which shall be ironed into the pavement with hot smoothing irons.

The asphalt plant shall be shut down each day at such time as will enable the loads to be hauled to the street, laid and completely rolled before dark.

The asphalt plant shall also shut down without delay should rain come up during the work, as no loads shall be laid in the rain or on wet concrete base.

No wearing surface shall be laid when, in the opinion of the Engineer, the weather conditions are unsuitable or unless the binder on which it is to be placed is dry. Excessive use of water on the steam roller when compressing the pavement will not be permitted. The finished pavement must be well protected from all traffic by suitable barricades until it is in proper condition to use.

PAYMENT.

Payment.—The price bid per square yard for asphalt pavement will include furnishing of all labor and material necessary to complete, as herein specified, the asphalt pavement above the concrete foundation; it will also include all work as specified under "Grading," Item 1, where on special bid is requested for the grading item.

MAINTENANCE

Condition at Expiration of Guarantee.—In addition to the proper maintenance of the pavement during the period of guarantee the Contractor shall, at his own expense, just before the expiration of the guarantee period, make such repairs as may be necessary to produce a pavement which shall:

- a—Have a contour free from depressions of any kind exceeding $\frac{3}{8}$ of an inch in depth as measured between any two points four feet apart on a line conforming substantially to the original contour of the street.
- b—Be free from cracks showing disintegration of the surface mixture.
- c—Contain no disintegrated surface mixture.
- d—Not have been reduced in thickness more than three-eighths of an inch in any part.
- e—Have a foundation free from such cracks or defects as will cause disintegration or settling of the pavement or impair its usefulness as a roadway.

Repairing.—Repairs, except as provided for below, shall in all cases be made by cutting out the defective binder and wearing surface down to the concrete and replacing them by new and freshly prepared binder and wearing surface made and laid in strict accordance with these specifications.

Whenever any defects are caused by the failure of the foundation, the pavement, including such foundation, shall be taken up and relaid with freshly prepared material made and laid in strict accordance with these specifications.

In all cases the surface of the finished repair shall be at the grade of the adjoining pavement and in accordance with the contour of the street.

The surface heater method of repairing may be used only in those cases where the repairs are not rendered necessary by:

- a—Failure of concrete.
- b—Failure of the binder.
- c—Failure caused by the disintegration of the lower portion of the wearing surface.

Whenever the surface heater method is employed, all defective surface shall be removed before replacing it with new material. In all cases the old surface shall be removed to a depth of not less than $\frac{1}{4}$ inch and the new surface must, when compressed, be not less than $\frac{1}{2}$ inch in thickness. The heat shall be applied in such a manner as not to injure the remaining pavement. All burnt and loose material shall at once be completely removed, and while the remaining portion of the old pavement is still warm, shall be replaced by new and freshly prepared wearing surface made and laid in strict accordance with these specifications.

ASPHALTIC CONCRETE PAVEMENT—ITEM 55

General Description.—Asphaltic concrete pavement may be laid with the ordinary foundation of concrete as specified for Asphalt Pavement or may be laid as a surfacing on top of existing granite, brick, boulder or other pavements. The wearing surface proper shall be not less than two (2) inches thick after compression and shall consist of a mixture of broken stone, sand, filler and Asphalt Cement as specified below.

Concrete Foundation.—If concrete foundation is specified the sub-grade shall be ——— (——) inches below and parallel to the finished grade of the roadway. On the sub-grade, prepared as specified under "Grading," Item 1, will be deposited ——— inches of concrete as specified, the upper surface of which shall be compact and true, parallel to and two (2) inches below the finished roadway grade. If deemed by the Engineer, the surface of the concrete shall be roughened by tamping with toothed rammers or by satisfactory means.

Old Pavement as Foundation.—When the asphaltic concrete is to be used as surfacing over existing pavements, the following shall be observed: If the old pavement has flagging gutters and crossings, such shall be taken up and removed and the space replaced by concrete of the class specified, such concrete to be brought to proper grade to receive the wearing coat. At the intersecting streets the existing paving shall be taken up and readjusted to the extent directed by the Engineer so as to afford a two (2) inch butt joint for the wearing coat. Care must be taken, that the drainage of the intersecting streets is not interfered with in doing this.

All manholes, water valves, etc., shall be readjusted to the grade of the proposed new surface and all holes or depressions more than two (2) inches in depth shall be filled with concrete of class specified. The entire surface of the old pavement shall then be swept and washed with hose until perfectly clean.

After the roadway has dried out, a binder course will be applied to such depth as will be required to form a surface parallel to and two (2) inches below the proposed surface of the completed pavement. This binder shall conform to the requirements for binder under the specifications for "Asphalt Pavement" except that the stone shall not exceed one (1) inch in maximum dimensions. After the binder coat has been thoroughly compressed by rolling, the wearing surface will be applied.

MATERIALS

Asphalts.—The Refined Asphalts, Fluxes, and Asphalt Cement used, must comply in all respects with the requirements specified for these materials under Asphalt Pavement Item 54.

Stone.—The stone shall be sound, hard, crushed granite, limestone or crushed gravel boulders, free from dust and all foreign materials, all passing a one-half-inch screen, and not more than 40% retained upon a screen with one-quarter inch round holes.

Sand.—The sand shall be hard-grained and moderately sharp. It shall be free from loam or any other foreign material, and shall be so graded as to produce in the finished surface mixture, the mesh requirements hereinafter specified.

Filler or Stone Dust.—The filler shall be ground Portland cement, silica or limestone dust, and shall be of such fineness that at least 65% will pass a 200-mesh sieve.

WEARING SURFACE

Mixture Composition.—The wearing surface shall consist of asphaltic cement, filler, sand and stone as heretofore specified, proportioned by weight so that the resulting mixture will contain average proportion of the whole, as follows:

Bitumen	7% to 9%
Mineral passing 200 mesh.....	6% to 11%
“ “ 80 “	6% to 15%
“ “ 40 “	10% to 25%
“ “ 10 “	10% to 20%
“ “ 4 “	10% to 40%
“ “ 2 “	5% to 20%
Total.....	40% to 55%

Sieves to be used in the order named.

The proportions of the above materials, sand, stone, filler and bitumen may be varied within the limits designated above in the discretion of the Chief Engineer, and said limits as to composition are intended to provide for such reasonable variations as may be rendered necessary by the kind of available materials, and the character of the work to be done. The minimum amount of bitumen above specified may be only used, however, when the mixture contains the maximum of aggregate coarser than ten mesh.

The item designated as passing 200-mesh sieve includes filler, fine sand passing a number 200-mesh sieve, and such 200-mesh mineral dust as is naturally self-contained in the asphaltic cement.

Mixture Preparation.—The aggregate shall be thoroughly dried before mixing with the asphaltic cement, in driers of the revolving type, which shall be so constructed and operated as to thoroughly agitate and turn the material during the process of drying.

The mineral aggregate and the asphaltic cement shall be heated separately to about 300 degrees Fahrenheit. The hot mineral aggregate shall be separated into two sizes, and stored in separate bins. By means of a 6 or 8-mesh screen, the sand portion of the mineral aggregate shall be collected in one bin, and the rejection from a 6 or 8-mesh screen shall be collected in another bin. Provision must be made for weighing out separately the required proportions of materials from each bin.

The asphaltic cement shall be melted in a tank arranged so that the heat can be properly and easily controlled and regulated. When melted and raised to a temperature of three hundred (300) degrees Fahrenheit it shall be combined in the specified proportions with the hot sand, stone and stone dust, and be immediately mixed in a mixer with revolving blades until a thorough, intimate and uniform mixture of the ingredients has been accomplished, and until all the mineral particles have become evenly and thoroughly coated with the asphaltic cement. The mixer shall be so arranged as to retain the heat during the process of mixing, but shall not be exposed directly to the action of the fire.

The maximum temperature of the aggregate at the mixers shall in no case be in excess of three hundred seventy-five (375) degrees F., and the maximum temperature of the asphaltic cement shall not exceed three hundred twenty-five (325) degrees F. at the discharge pipe. The filler, mineral aggregate, and asphaltic cement shall be mixed at the required temperature, and in the proper proportions so as to effect a thoroughly homogeneous mixture.

In producing the mixture, the proportions of asphalt cement and mineral aggregate must at all times be determined by actual weighing with scales, and shall be verified as often as may be required by the Chief Engineer.

Laying.—The asphalt wearing surface mixture as prepared above shall be hauled to the work in wagons or trucks, provided with canvas or other suitable covers. The mixture shall be dumped in such a manner that all of it must be loosened and turned before being raked. If considered necessary by the Chief Engineer to secure proper handling and even distribution of the mixture, the wagons shall be dumped upon sectional platforms from which all of the mixture must be handled and distributed. The wearing surface mixture shall be raked

while hot over the clean foundation to such thickness that after receiving ultimate compression by rolling, it shall have a depth of two (2) inches.

Initial compression shall be effected by means of a roller of five (5) tons weight, immediately after which fine dry sand in sufficient quantities to completely fill all superficial interstices shall be swept over the surface.

The rolling shall then be continued with a roller of ten (10) tons weight, until all roller marks have disappeared and the surface has become uniformly smooth, and free from elevations and depressions greater than one-quarter ($\frac{1}{4}$) inch under a six (6) foot straight-edge placed longitudinally of the street. Rolling shall be carried on continuously at the rate of not more than two hundred (200) yards per hour. The final rolling above specified shall be done with a three (3) wheel roller if the Chief Engineer so directs.

Along the curb and around the manholes and other obstructions in the street where the roller can not reach, the compression shall be secured by the use of hot iron tampers. The tamping shall be done as quickly as possible after the material is spread, and while it is still hot and plastic.

No portion of the wearing surface shall be laid when the surface of the concrete base is wet. Before the paving mixture is laid the entire exposed surface of the roadway face, of the gutter flag and of the iron frames of manholes and catch basins shall be thoroughly painted with the pure asphaltic cement.

The paving shall be done as nearly continuously as possible, so the joints between the hot and cold material shall be as far and as few as possible. When a joint is unavoidable, the section of cold material shall be roughly brought down to a feathered edge, and the surface where the joint is to be made, painted over with pure asphaltic cement, the hot material raked over the feathered edge and thoroughly rolled. Upon the completion of the improvement the gutters shall be cleaned and the street kept barricaded for a period of twenty-four (24) hours.

The Contractor shall furnish all facilities for plant inspection by the Chief Engineer, and shall provide proper place and equipment for testing aggregates and penetrations of asphaltic cement.

Payment.—The cost of replacing gutter flagging and crossings will be included in price bid for concrete per cubic yard.

The readjusting of existing pavements at the intersections will be paid for as repaving under the appropriate heads. All concrete used in filling holes will be paid for at the price bid per cubic yard. The readjusting of manholes will be paid for as such.

Where the asphaltic pavement is laid over old block pavements, any binder used in filling depressions shall be paid for by the cubic foot as Extra Binder Item 53.

The price bid for asphaltic concrete pavement per square yard shall include all the balance of the work of laying the pavement complete.

BITHULITHIC PAVEMENT—ITEM 56

Subgrade.—The subgrade for Bitulithic Pavement will be ——— (——) inches below and parallel to the finished grade of the roadway. On the subgrade, prepared as specified under Grading Item 1, will be deposited ——— (——) inches of concrete as specified, the upper surface of which shall be compact and true, parallel to and two (2) inches below the finished roadway grade. If deemed necessary, the surface of the concrete shall be roughened by tamping with toothed rammers or by other satisfactory means.

Paving Mixture.—Before starting work, the contractor shall, at the request of the Engineer, submit a formula for the paving mixture to be used. This formula shall be subject to approval or rejection by the Engineer, and in the latter case a new formula shall be submitted. If the contractor is unable or unwilling to submit a formula such as the Engineer will approve, the latter shall prescribe the formula to be used for the proposed work. In any case, no change from the approved mixture can be made without written permission by the Engineer.

Wearing Surface.—Either of the two following methods and apparatus shall be used in the preparation of the wearing surface:

1. The stone and sand shall be heated in a rotary drier and while still hot, separated into the desired number of different sizes by means of a rotary screen

having a minimum screen opening of about 1/10 of an inch and a maximum opening of about one and one-half (1½) inch. The openings in the successive screen sections up to one-half (½) inch size shall not vary more than one-quarter (¼) of an inch and not more than three-quarters (¾) of an inch for the sizes larger than one-half (½) inch. The aggregate thus separated shall pass into a bin having sections or compartments corresponding to the screen sections. From these compartments the aggregate shall pass into a weigh box, resting on a multi-beam scale. The desired amount of aggregate from each of the above compartments shall be accurately weighed separately on the scale and the batch dropped into a "twin-pug" mixer, where it shall be intimately associated and thoroughly commingled with a pre-determined quantity of Bitulithic Cement sufficient to coat all particles of the aggregate and to fill the voids in same.

2. The stone and sand shall first be carefully measured as to sizes and quantity of each size and then shall be fed into an elevator terminating in a hopper or bin which discharges into a rotary dryer or heater, both hopper and heater being so designed as to keep each batch by itself until heated. From the rotary heater the batch of mineral aggregate shall pass into a rotary cylindrical mixer containing blades, spirals or other devices for producing a uniform mixture of the mineral aggregate with a pre-determined quantity of the Bitulithic Cement, sufficient to coat all the particles of the aggregate and to fill the voids in same.

The different grades of stone and sand ranging in size from impalpable powder to about one-half the thickness of the wearing surface shall be combined in such proportions as to secure in the mineral aggregate inherent stability, that is density, or low percentage of voids, and stability or resistance to displacement, producing an aggregate which when combined with the Bitulithic Cement and laid in place and compacted will form a street paving structure consisting of mineral aggregate of different sizes and the Bitulithic Cement which permeates the entire mass, fills the voids and unites the various particles thereof. If the crushed stone and sand do not contain enough finely divided particles or impalpable powder to produce a low percentage of voids in the aggregate the deficiency shall be made up by the addition of any other suitable fine mineral matter.

The mixture and ingredients thereof, shall be maintained at a temperature consistent with good workmanship. The mixture when reaching the street shall be hot enough to allow of being easily spread and raked, and shall not be so hot as to injure the Bitulithic Cement.

Surface Finish.—Either of the following methods may be used for applying the seal coat:

(a) Immediately after the wearing surface mixture has been spread, but before compression, there shall be spread over it the seal coat mixture of approximately twenty-five (25) pounds per square yard of aggregate (all of which shall pass one-quarter [¼] inch screen), mechanically combined with approximately twelve (12) to fourteen (14) per cent. by weight, of bitulithic cement. The seal coat and wearing surface mixtures shall then be immediately compressed by thorough rolling.

(b) Immediately after spreading the wearing surface mixture, it shall be thoroughly rolled and while it is still warm, there shall be evenly spread over it by means of a bitumen spreading machine, approximately one-quarter (¼) gallon per square yard of hot Bitulithic Cement to flush the surface voids without leaving an excess. Immediately thereafter the surface shall be covered with approximately twenty-five (25) pounds of dry, clean, sharp sand, or stone chips not over one-quarter (¼) inch in diameter, which shall be immediately rolled into the surface.

(c) On grades in excess of three (3) per cent. a coarser aggregate may be used with either method of applying the seal coat.

General.—Each layer of the work shall be kept as free as possible from dirt, so that it will unite with the succeeding layer.

The bituminous composition or cement shall in each case be free from water, and shall be especially refined to remove volatile and other matter susceptible to atmospheric influences.

Warren Bros. Company, owner of the patents used in the construction of the bitulithic pavement, shall file with the Director of Public Service a properly executed binding agreement to furnish to any contractor desiring to bid for the

work all the necessary bitulithic surface material, mixed ready for use, and Bitulithic Cement and the sand, gravel, or stone screenings for the surface finish course, in accordance with the Sections "Wearing Surface" and "Surface Finish," at a definite reasonable price per square yard. Said price shall include a license to use all of the patents required in the construction of the bitulithic pavement as herein specified.

The acceptance of bids by the City of ——— and the letting of a contract for the same shall be deemed by Warren Bros. Company to be an acceptance of its proposal by the City of ——— and by the Contractor to whom such contract shall be awarded, and are all that shall be necessary to bind Warren Bros. Company to said agreement. The filing of a bid under these specifications will be construed as an acceptance of the terms of the licensed agreement filed by the Warren Bros. Company, at the price fixed in said agreement which is on file with the Director of Public Service.

Payment.—The price bid per square yard will include all labor and material necessary to complete the pavement above the concrete foundation; it will also include all work as specified under "Grading," Item 1, where no special bid is asked for the grading item.

BOWLDER PAVEMENT—ITEM 57

Foundation.—The depth of subgrade for Bowlder streets shall be sixteen (16) inches below the finished surface of the roadway.

Upon the prepared subgrade, the entire surface of the roadway between the gutters shall be evenly spread with a layer of sound, hard hill limestone, broken into fragments as nearly regular as practicable, which shall measure not more than two and one-half ($2\frac{1}{2}$) inches in any direction. The layer shall be of such thickness that, when thoroughly compacted, its surface shall be at a uniform depth of eight (8) inches below the finished roadway grade. The layer shall be compacted by rolling with a steam roller exerting a pressure of not less than two hundred and fifty (250) pounds per lineal inch of roller.

The broken stone shall then be covered with a light layer of gravel and the surface shall be rolled again until thoroughly compact, so as to afford a solid foundation.

Gravel.—Upon the surface of the foundation thus prepared shall be evenly spread a layer of gravel, in which to bed the bowlders, and of such depth as will bring the surface of the paving to the proper grade.

All gravel used on this work must be clean and free from animal or vegetable matter or refuse of any kind, and must not contain more than ten (10) per cent. of clay or loam. Such gravel must not contain pebbles exceeding one (1) inch in diameter in their longest dimensions. The gravel must be of a character which has been found by experience in this locality to be specially adapted for bowlder paving.

Paving.—In paving, the Contractor shall keep the foundation work laid to the proper grade and thoroughly rolled into proper shape at least one hundred (100) feet in advance of the paving, which must be laid in sections of not less than one hundred (100) feet in length, entirely free from gravel, rubbish or covering of any description, and thoroughly swept, ready for inspection.

The bowlders shall be laid from gutter to gutter. They shall be of good shape, free from all flaws or breaks, and shall be of hard, imperishable substance, no sandstone or limestone bowlders to be used, no stone to measure less than four (4) or more than eight (8) inches in longest diameter; the stones to be carefully assorted and so placed that the largest ones shall be next to the gutters. The bowlders when set in an upright position, shall show horizontal dimensions of not less than three (3) nor more than six (6) inches in any direction, and shall be firmly set upon the foundation in a perfectly upright position, with the small ends down and as closely and compactly together as it is possible to set them. When the bowlders have been set for a distance of sixty (60) feet, the first fifty (50) feet must be lightly rammed, after which a covering of gravel, sufficient only to fill the interstices, will be spread over the surface and thoroughly broomed in, and then the whole shall be thoroughly rammed with rammers weighing not less than forty (40) pounds.

As soon as two sections aggregating one hundred and ten (110) feet in length have been thus completed, the first one hundred (100) feet shall be again covered with gravel, broomed and thoroughly rammed, and held ready for inspection.

As soon as each section of one hundred (100) feet has been accepted, a final covering of two (2) inches of gravel shall be spread over its entire surface.

In no case (except where the section terminates the line of work) shall the bowlders be rammed within less than ten (10) feet of the front of the work last laid.

After completion, the surface of the roadway must be true to grade, and must show no continuous lines or unequal settlements.

Payment.—The price bid for bowlder pavement will include the cost of trimming and rolling the subgrade and the furnishing of all labor and material to complete the pavement, including both gravel and broken stone; and will also include all grading for the establishment of the subgrade in cases where no special bid is asked for grading.

Crossings.—Crossings for bowlder streets will consist of strips of granite pavement five (5) feet in width. The crossings will be firmly bedded on the same gravel and broken stone foundation as used for the bowlder paving. The cost of the broken stone and gravel to be included in the price bid for crossings.

Gutters.—The gutters for bowlder streets will consist of strips of granite paving twenty (20) inches in width with a foundation of concrete six (6) inches in depth and twenty-four (24) inches in width. The blocks and all work and material shall conform to the requirements of the specifications for granite pavement, except as follows: The top of the concrete shall be six (6) inches below the grade of the gutter, the blocks shall be bedded on a mortar consisting of one (1) part cement to two (2) parts sand, and with only enough moisture to harden the cement.

The gutter paving should be kept a short distance only in advance of the bowlder paving, and as the latter is finished and rammed, but before the gravel covering is put on, the gutter paving should be finished by pebbling, ramming, filling joints, etc., as specified for granite paving.

BOWLDER REPAVING—ITEM 58

Under this item the Contractor shall replace, as directed, all bowlder pavements disturbed in prosecuting the work or the repaving of which is deemed advisable to make the adjoining bowlder pavement conform to the grade of the new improvement. The subgrade, if disturbed, must be thoroughly consolidated. The work of repaving will correspond as closely as practicable to the requirements for Bowlder Paving. The price bid per square yard shall include all work and material necessary or incidental to the proper relaying of the bowlder pavement.

BRICK PAVEMENT—ITEM 59

The bidder shall state in his bid the kind of brick he proposes to use. Before beginning work the successful bidder must submit to the City a written statement from the paving brick manufacturer giving satisfactory evidence that the manufacturer is able and willing to furnish the bidder brick in accordance with the specifications, and in sufficient quantity to complete the work within the required time. No change of brick will be allowed without written permission.

Character of Brick.—All brick must be No. 1 pavers. They must be thoroughly annealed, tough and durable, regular in size, shape, and evenly burned. The use of hillside block will be required where the grade exceeds 5%.

When broken, the brick shall show a dense, stone-like body, free from lime, air pockets, cracks or marked laminations. Kiln marks must not exceed three-sixteenths (3/16) of an inch in depth, and one edge at least shall show but slight kiln marks. All bricks so distorted in burning as to lay unevenly in the pavement shall be rejected.

The paving brick or block to be used shall be 4 inches in depth, between 3 and 3¼ inches in width, and from 8 to 9 inches in length. The brick for one improvement shall not vary over ¼ inch in depth or width. If the edges of the brick are rounded the radius shall not exceed three-sixteenths (3/16) of an inch.

The brick must have lugs so as to provide joints between the brick when laid of approximately three-sixteenths ($3/16$) inch; either wire cut lug brick or repressed brick with lugs on one side may be used.

Inspection.—All brick shall be subject to thorough inspection before and after laying, and all rejected material shall be immediately removed from the street.

Tests Before Unloading.—The Contractor shall notify the Engineer of the location and car number of each carload of brick received. Samples for testing from such car shall be taken and the car locked by the Engineer, and no brick shall be taken to be delivered on or adjacent to any improvement on which the brick are to be used until a written statement has been received from the Engineer that the samples have passed the required tests and the car has been unlocked. Decision relative to each carload will be made within twenty-four (24) hours of notice. Permission to deliver brick on the line of work shall not be considered a final acceptance in any respect.

Delivery of Brick.—Before the grading is finished the brick shall be hauled, carefully unloaded by hand, and neatly piled between the curb and the property line in such manner as not to unduly obstruct passage. The brick shall be kept clean at all times. If coated or splashed with mud or other dirt they shall be washed clean before their use will be permitted.

Rattler Test.—When tested in the rattler in accordance with the specifications and rules adopted by the National Paving Brick Manufacturers' Association at their annual meeting of 1911, the brick shall lose not over 22%.

Samples for testing shall be taken from each car (estimated at 10,000 brick). Three grades of samples shall be tested, one of the softest, one of the medium, and one of the hardest burned. If all of the tests overrun the above percentage of loss, the car shall be rejected. If one or two of the tests overrun, another test of said grade or grades shall be made. Should only one of these tests overrun the specified percentage of loss, the Contractor may cull said grade, provided they do not exceed ten (10) per cent. of the amount of brick in the car, and deliver the balance on the improvement. Otherwise, the whole car will be rejected.

In order to prevent the continued shipments of inferior brick, only two cars of two separate shipments of any make of brick will be tested. Should they fail to meet the requirements stated above, said make of brick will be rejected for this improvement.

Foundation.—The subgrade for brick pavement will be ——— (———) inches below and parallel to the finished grade of the roadway; on the subgrade prepared as specified under "Grading," Item 1, will be deposited ——— (———) inches of concrete, as specified under "Concrete."

Methods of Paving.—Brick paving may be laid (1) with either a sand cushion or a sand-cement bed and (2) the joints may be filled with either cement grout or with pitch-mastic, or (3) following what is known as the monolithic method. The requirements of the various methods are as specified below, but the methods to be followed for each particular street will be noted under the head of special requirements.

Expansion Joints.—If pitch filler is to be used the brick will be laid directly against the curb; if a cement grout filler is to be used an expansion joint must be provided along each curb line. Expansion joint shall be provided by placing in position, for full depth and width, a material previously prepared in the form of a built-up board. This material shall be composed of a preformed solid body of asphalt compound, reinforced on both sides with a layer of asphalt saturated high-grade wool felt. The asphalt used in the board shall be of character satisfactory to the Engineer.

The expansion joint strips shall be about five (5) feet long, shall be four (4) inches deep, and shall be one (1) inch thick for a thirty-foot roadway, and in proportion for roadways of different widths.

Provision shall be made around manholes, inlets, etc., for expansion joints, same as along curbs.

Sand Bed.—The sand shall be clean, moderately coarse and free from loam, clay or foreign matter; it shall be screened free from pebbles exceeding three-eighths ($3/8$) inch in size.

The sand shall be spread to such depth as will afford a thickness of one (1) inch after compaction. The bed shall be shaped carefully and truly by means of a template satisfactory to the Engineer to the exact contour of the proposed pavement. In locations where the use of a template is not practicable the bed may be shaped by means of a lute. The bed must be prepared at least forty (40) feet in advance of the paving.

Sand-Cement Bed.—Upon the concrete foundation shall be spread a layer of mortar one inch in thickness and made of one part of Portland cement, and three parts of sand. Only sufficient water shall be added to this mixture to insure a proper setting of the cement, the intention being to produce a granular mixture which may be raked to the desired grade. The sand and cement shall be thoroughly mixed and shall be spread in place on the foundation immediately in advance of the brick laying to such a thickness that when the brick are set and properly bedded in the bed, their tops shall conform accurately to the finished grade of the roadway. The concrete foundation shall be cleaned and swept and shall be thoroughly dampened immediately in advance of placing the sand-cement bed. The mortar bed shall be struck by templates to a surface parallel to the grade and contour of the finished pavement.

Laying the Brick.—The brick shall be laid in straight line on edge, at right angles to the curb. At intersections they shall be laid as directed. Brick shall be laid with the ends and sides close together and with the lug sides all in the same direction. Joints shall be broken by at least three (3) inches. At every fourth course the brick shall be driven together to secure contact and straight courses, and all thick brick shall be removed. Brick shall be laid with the better side up.

When any section shall contain more than ten (10) per cent. of culls, the brick shall be taken up and the cushion adjusted. Brick shall be laid from curb to curb or car track to curb.

No bats or broken brick shall be used except at curbs or at street car tracks. Brick so broken for batting shall be cut square with the top and sides of the brick. Batting for closures shall immediately follow the laying. All joints must be kept clean and open to the bottom until filled as specified. In batting, no piece less than three (3) inches shall be used.

Rolling.—After the brick in the pavement have been accepted for rolling and the surface swept clean, the pavement shall be rolled with a roller weighing not less than five (5) nor more than seven (7) tons, in the following manner: The brick next the curb shall be tamped with a hard wood tamper, to the proper grade. The rolling shall then commence near the curb at a very slow pace, and continue back and forth toward the center, until the center of the street is reached; then, passing to the opposite curb, it shall be repeated in the same manner to the center of the street. After this first passing of the roller the pace may be quickened and the rolling continued until each brick is firmly embedded in the bed. The pavement shall then be rolled transversely at an angle of forty-five (45) degrees from curb to curb, repeating the rolling in the opposite forty-five degree direction. Before and after this transverse rolling has taken place, all broken or injured brick must be taken up, and replaced with perfect ones. The brick substituted must be brought to the true surface by tamping.

After final rolling the pavement shall be tested with a ten (10) foot straight-edge, laid parallel with the curb, and any depression exceeding one-quarter ($\frac{1}{4}$) of an inch must be remedied. If necessary, the pavement shall be again rolled.

If a sand-cement bed is used the rolling as above specified must be done before the cement has taken its initial set; in general, it will be required that the rolling be done at least twice a day and oftener if deemed necessary by the Engineer.

A short time before the rolling is commenced the pavement shall be thoroughly sprayed so that sufficient water enters the sand-cement bed to thoroughly set the cement. If any of the sand-cement bed has hardened before the pavement has been rolled, the bricks must be removed, the hardened bed discarded and the brick repaved on a fresh bed as specified.

Cement Grout Filler will consist of equal parts of Standard Portland Cement and fine, clean, sharp sand. Whether machine or hand-mixed, each batch shall

consist of one sack of cement and one cubic foot of sand. The sand for the grout shall be sharp and thoroughly clean, and be composed of grains of such size that 75% will fail to pass the No. 30 sieve, and it shall be tested with regard to the strength of the mortar made with it.

If the grout is hand-mixed the work shall be as follows:

One sack of cement with an equal amount of sand shall be thoroughly mixed together dry in a box preferably about four (4) feet eight (8) inches long, thirty (30) inches wide, and fourteen (14) inches deep, resting on legs of different lengths, so that the mixture will rapidly flow to the lower corner of the box, the bottom of which shall be about three (3) inches above the pavement. One box shall be used for each fourteen (14) feet in width of roadway, and at least two (2) boxes must be used in all cases.

After the cement and sand have been thoroughly mixed until the mass assumes a uniform color, enough clean water shall be added to obtain a grout that will give the best results. From the time the water is applied until the last drop is removed, and floated into the joints of the pavement the mixture must be kept in constant motion. Before the grout is applied the brick shall be thoroughly wetted by being gently sprayed.

The grout shall be removed from the box with scoop shovels and applied to the brick, in front of the sweepers, who shall rapidly sweep it lengthwise of the brick into the unfilled joints, until the joints are filled to within one-half ($\frac{1}{2}$) inch of the top of the brick. After the grout has had a chance to settle into the joints and before the initial set develops, the balance of every joint shall be filled with a thicker grout, and, if necessary, refilled until the joints remain full to the top.

After this application has had time to settle and before the initial set takes place, the pavement shall be finished to a smooth surface with a squeegee having a rubber or leather edge, which shall be worked over the brick at an angle with the courses of the brick.

In the case of Hillside brick, the grooves must be swept clean of grout before same has become hard.

The cement grout may be mixed in a suitable grout-mixing machine, satisfactory to the Engineer. The machine must be of the batch type and of one-sack capacity. Each batch must remain in the mixer a full minute and the amount of water must be kept uniform for each batch. The grouting operations must be carried out substantially as specified above.

When completed and the cement has received its initial set, the pavement shall be covered with a one-half ($\frac{1}{2}$) inch layer of sand, and shall be kept moistened for at least five (5) days. No travel shall be permitted on the pavement for a period of at least ten (10) days after grouting, or longer as directed.

Ample barricades and watchmen shall be provided by the Contractor for the proper protection of the grouting.

Pitch-Mastic Filler consists of coal tar pitch and sand, and shall be made and applied as follows:

The pitch shall be of 115 degrees F., melting point, similar to that specified for granite pavement, and clean, fine sand, such as used for asphalt pavement. The temperature of the sand and pitch will be determined by the Engineer, but the sand will be heated to a temperature of not less than 400 degrees F., and the pitch to a temperature of not less than 350 degrees F.; they will be mixed in small batches in the proportion of one part sand to one part pitch. The apparatus and methods used for the mixing must be such as will meet the approval of the Engineer.

The mastic shall be applied to the pavement immediately after mixing, and shall be quickly squeegeed into the joints until same are flush full.

It is essential that the joints be filled flush full and with a slight surplus on top and the surface shall be gone over the second and third time if necessary to produce this result.

A top dressing one-quarter ($\frac{1}{4}$) inch in depth of coarse torpedo sand will be applied immediately after the filler is applied. The torpedo sand shall consist entirely of grains between one-sixteenth ($\frac{1}{16}$) and three-sixteenth ($\frac{3}{16}$) inch in size, shall be perfectly dry when applied and shall be spread uniformly over the entire surface. The top dressing shall then be rolled with some weight roller

as previously mentioned, and the street shall be immediately thrown open to traffic.

MONOLITHIC CONSTRUCTION

Subgrade.—The subgrade shall be ——— (——) inches below and parallel to the finished roadway surface. This shall be lightly sprinkled with water before placing the concrete.

Placing and Finishing Concrete Base.—Concrete, class 3, shall be used for the foundation and shall be deposited, struck off and finished to the depth of ——— (——) inches so that when complete the surface shall be parallel to, and ——— (——) inches below the grade of the finished roadway. The surface shall be smooth and uniformly finished, with the coarse aggregate thoroughly embedded in mortar. The concrete shall be brought to the required surface smoothness, and in condition for laying the brick thereon, by adding thereto a thin coat of sand and cement, approximately one-quarter ($\frac{1}{4}$) inch in depth. The required surface smoothness of the concrete with the sand-cement coating, shall be secured by means of templates or hand luting.

Sand and Cement Thin Coat.—The sand and cement for the thin coating shall be of a quality equal to that used in the fine aggregate in the concrete. They shall be thoroughly mixed dry in advance in a mechanical batch mixer, in the proportion of one (1) part cement to three (3) parts of sand by volume. Mixing shall continue until the mass attains a uniform shade. Sufficient quantity shall be prepared at intervals in order that there shall be no interruption in preparing the surface of the concrete for brick laying.

Laying.—Upon the foundation as prepared, the brick shall be immediately laid with the better edge uppermost and the projections in one direction. Only whole brick shall be used except as provided or by special direction of the Engineer.

In delivering the brick, from the piles for placement in the roadway, no wheeling in barrows will be allowed on the brick surface, but they should be carried on pallets or carriers, in such order that when delivered to the dropper, they will lie in such a position, that each brick in the regular operation of placing it upon the foundation prepared, will bring the projections in the same direction and the better edge uppermost. Passing to and fro over the freshly laid brick for deliveries to the dropper shall be upon boards laid for that purpose.

Alternate courses of brick shall be commenced with a one-half ($\frac{1}{2}$) brick, and all joints across the roadway shall be broken at least three (3) inches. Upon laying the brick, they shall immediately be batted in at the edge line, using fragments of brick in no case less than three (3) inches in length. The fractured end of cut or trimmed brick shall be turned toward the center of the roadway. Each course shall be laid true and even, transverse to the edge lines, and shall be closed and straightened by tapping lightly with a sledge on a four by four (4 x 4) inch timber, three (3) feet in length, provided with an upright handle. All the work of brick laying shall be done over the brick surface already laid.

Immediately after laying the brick, the surface of the road shall be swept and inspected. Brick not laid with the better face uppermost shall be turned over and those not meeting the specifications shall be removed and replaced by those acceptable. Brick slightly chipped, but otherwise good, shall be accepted.

Immediately after the brick in the pavement have been inspected and the surface of the pavement swept clean, the pavement shall be rolled with a self-propelled two (2) ton roller, or with a hand-roller approximately thirty (30) inches long and twenty-four (24) inches in diameter, made in sections and filled with water, weighing not less than twenty (20) pounds per inch of length. The rolling should be kept close to the laying and continued until surface is smooth. The Engineer will decide whether hand-roller or self-propelled roller be used.

Such portions of the roadway surface as are inaccessible to the roller shall be brought to the required surface by hand tamping, applied upon a two (2) inch board.

Broken or otherwise injured brick shall be removed and replaced prior to the final rolling operation.

The completed surface of the roadway shall conform to the true grade and cross section within the limits of one-quarter ($\frac{1}{4}$) of an inch. Depressions exceeding the limit shall be corrected by removing and relaying the brick. The roadway shall be completed and made ready for grouting at all times within twenty-five (25) feet of the brick laying.

Cement Grout Filler.—After completing the rolling of the pavement as above described and before the sand-cement thin coat has taken its initial set, cement-grout filler, conforming in all respects to that previously specified, shall be applied.

Payment.—The price bid per square yard for brick pavement will include the furnishing of all labor and material to complete the pavement above the concrete foundation; it will also include all work as specified under "Grading," Item 1, where no special bid is asked for the grading item.

Maintenance.—During the period of guaranty, whenever the surface of a brick pavement becomes uneven, holding water one-quarter ($\frac{1}{4}$) of an inch or more in depth in a distance of four feet or less, or when the pavement has settled over trenches existing previous to the acceptance of the pavement, then the brick shall be taken up and relaid to proper crown and grade.

BRICK REPAVING—ITEM 60

Under this item the Contractor shall replace as directed, all brick pavements disturbed in prosecuting the work or the repaving of which is deemed advisable to make the adjoining brick pavement conform to the grade of the new improvement. All the old brick used shall be well cleaned. The work done shall conform substantially to the requirements for "Brick Pavement," as ordered.

The price bid for brick repaving per square yard shall include the furnishing of all material and work complete above the concrete foundation.

Concrete used for the foundation shall be paid for separately under the appropriate item.

CONCRETE PAVEMENT—ITEM 61

General.—Concrete pavement shall consist of one-course work with or without a finished and blocked surface, and with or without reinforcement. The depth will usually be seven (7) inches or six (6) inches at the sides and eight (8) inches in the center. It will be laid with either separate or integral curbs. The type to be used for each particular street will be indicated on the drawings and described under head of "Special Requirements."

Cement.—The cement shall meet the requirements of the specifications for cement as specified for concrete.

Sand.—Sand shall consist of natural sand or screenings from hard, tough, durable crushed rock or gravel, consisting of quartzite grains or other equally hard material graded from fine to coarse with the coarse particles predominating. Sand, when dry, shall pass a screen having four (4) meshes per linear inch; not more than twenty-five (25) per cent shall pass a sieve having fifty (50) meshes per linear inch, and not more than five (5) per cent shall pass a sieve having one hundred (100) meshes per linear inch. Sand shall not contain vegetable or other deleterious matter nor more than three (3) per cent by weight of clay or loam.

Sand shall be of such quality that mortar composed of one (1) part Portland cement, and three (3) parts sand, by weight, when made into briquettes, shall show a tensile strength (at seven [7] and twenty-eight [28] days) equal to or greater than the strength of briquettes composed of one (1) part of the same cement and three (3) parts standard Ottawa sand by weight. The percentage of water used in making the briquettes of cement and sand shall be such as to produce a mortar of the same consistency as that of the Ottawa briquettes of standard consistency. In other respects all briquettes shall be made in accordance with the Report of Committee on Uniform Tests of Cement of the American Society of Civil Engineers.

Coarse Aggregate.—Coarse Aggregate shall consist of clean, hard, tough, durable crushed rock or pebbles graded in size, free from vegetable or other deleterious matter, and shall contain no soft, flat or elongated particles. The size of the coarse aggregate shall be such as to pass a one and one-half ($1\frac{1}{2}$)

inch round opening and shall range from one and one-half ($1\frac{1}{2}$) inches down, not more than five (5) per cent passing a screen having four (4) meshes per linear inch, and no intermediate sizes shall be removed.

Aggregates.—Before delivery on the job, the Contractor shall submit to the Engineer a fifty (50) pound sample of each of the fine and coarse aggregates proposed for use. These samples shall be tested and if found to pass the requirements of the specifications similar material shall be considered as acceptable for the work. Aggregates containing frost or lumps of frozen material shall not be used.

Water.—Water to be used shall be free from sewage, oil, acid, strong alkalis, or vegetable matter, and shall be reasonably free from clay or loam.

Subgrade.—The sub-grade shall be ——— (——) inches below and parallel to the finished surface of the roadway. It will be prepared in accordance with the requirements for same, under item for "Grading" of these specifications. Immediately before any concrete is placed the sub-grade must be in a moist condition. Where the sub-grade is dry and of a porous nature the above mentioned condition shall be obtained by sprinkling.

Distribution of Materials.—Wherever it is possible to do so, the concrete material shall be stored outside of the portion of the roadway to be paved.

Proportions.—The ingredients of the concrete shall be mixed in the proportion of one (1) sack of cement to not more than one and one-half ($1\frac{1}{2}$) cubic feet of sand and three (3) cubic feet of stone. A cubic yard of concrete in place between neat lines shall in no case contain less than seven (7) sacks of cement.

Measuring.—The concrete materials shall be measured by methods which will secure positive uniform proportions at all times. A sack of cement shall weigh not less than ninety-four (94) pounds net, and will be considered as one (1) cubic foot.

Mixing.—The materials shall be mixed in a batch mixer approved by the Engineer, and irrespective of the size of the batch and rate of speed used, mixing shall continue after all materials are in the drum for at least one (1) minute before any part of the batch is discharged from the drum. The drum shall be completely emptied before receiving material for the succeeding batch. The drum shall revolve at a rate of speed specified for the particular mixer used by the Contractor but not less than twelve (12) revolutions per minute. The volume of the mixed material used per batch shall not exceed the manufacturer's rated capacity of the drum in cubic feet of mixed material.

Retempering.—Retempering of mortar or concrete which has partly hardened, that is, mixing with or without additional materials or water, shall not be permitted.

Consistency.—The materials for the pavement shall be mixed with sufficient water to produce a concrete which will hold its shape when struck off with a template and so that there shall be no separation of the mortar from the coarse aggregate.

Forms.—Where forms are required, they shall be free from warp and of sufficient strength to resist springing out of shape. Wooden forms shall be not less than two (2) inch stock. Forms shall be well staked or otherwise held to the established line and grades. Where the curb is to be constructed integrally with the pavement, the upper edge of the side forms shall conform to the top of the curb. All mortar and dirt shall be removed from forms before they are used.

Reinforcing.—The reinforcement shall have a weight of not less than twenty-eight (28) pounds per one hundred (100) square feet. The ratio of effective areas of reinforcing members at right angles to each other may vary from 1:1 to 4:1. The spacing between parallel lines of reinforcing members shall be not more than eight (8) inches. A reduction of three (3) pounds from the weight specified shall be allowed for those types of reinforcement not requiring extra metal at intersections.

Reinforcing metal shall be placed between base and wearing course and shall not be less than two (2) inches from the finished surface of the pavement and otherwise shall be placed as shown on the drawings. The reinforcing metal shall extend to within two (2) inches of all joints, but shall not cross them. Adjacent

widths of fabric shall be lapped not less than four (4) inches when the lap is made perpendicular to the center line of the pavement and not less than one (1) foot when the lap is made parallel to the center line of the pavement.

Expansion Joints.—Longitudinal expansion joints will be provided along each curb if the pavement is laid with such. These expansion joints will be formed in the same manner and of same width as provided for "Brick Pavement," except that the joints must extend entirely through the concrete.

At intervals of thirty (30) feet there shall be constructed transverse expansion joints. Such joints shall be straight and perpendicular to the center line of the pavement, shall extend through the full depth of the concrete, and corresponding points on the two edges of the joints shall be at the same elevation.

Expansion joints shall be formed by inserting during construction and leaving in place a total thickness of three-eighths ($\frac{3}{8}$) of an inch of tarred paper or felt treated with tar or asphalt, previously prepared in the form of a built-up board. They shall project not less than $\frac{1}{2}$ inch above the finished surface and before the pavement is opened to traffic the joint fillers shall be cut off to a height of $\frac{1}{4}$ inch above the surface of the pavement.

Placing Concrete.—Immediately prior to placing the concrete, the sub-grade shall be brought to an even surface. The surface of the sub-grade shall be thoroughly wet but shall show no pools of water when the concrete is placed.

After mixing, the concrete shall be deposited rapidly upon the sub-grade, to the required depth and for the entire width of the pavement in successive batches and in a continuous operation without the use of intermediate forms or bulkheads between expansion joints. If the concrete is placed in two courses, as when reinforcement is used, any dirt, sand or dust which collects on the base course shall be removed before the top course is placed. The concrete above the reinforcement shall be placed immediately after mixing and in no case shall more than forty-five (45) minutes elapse between the time that the concrete below the reinforcement has been mixed and the concrete above the reinforcement is placed.

In a case of breakdown, concrete shall be mixed by hand to complete the section or an intermediate transverse joint placed as hereinbefore specified at the point of stopping work. Any concrete in excess of that needed to complete a section at the stopping of work shall not be used in the work.

Finishing.—The surface of the concrete shall be struck off for the entire width of the pavement, and from back to back of integral curbs when used, by means of a template or strikeboard. Any holes left by removing any material or device used in constructing the joint shall be filled immediately with concrete from the latest batch deposited on the sub-grade. Concrete adjoining metal protection plates at transverse joints shall be dense in character and shall be given a smooth finish with a steel trowel for a distance of six (6) inches on each side of the joints. The concrete adjacent to unprotected joints shall be finished with a wood float, which is divided through the center and which will permit finishing on both sides of the filler at the same time. The concrete for a distance of eighteen (18) inches out from the curb line shall be finished with a steel trowel, if ordered by the Engineer.

After being brought to the established grade with the template or strikeboard, the concrete shall be finished from a suitable bridge, no part of which shall come in contact with the concrete. If approved by the Engineer, the Contractor may use a mechanical striking and finishing machine. The concrete shall be finished with a wood float in a manner to thoroughly compact it and produce a surface free from depressions or inequalities of any kind. The finished surface of the pavement shall not vary more than one-quarter ($\frac{1}{4}$) inch from the specified contour.

With the Engineer's permission, the finishing may be done with suitable belts instead of the wood float.

Curing and Protection.—Except as hereinafter specified, the surface of the pavement shall be sprayed with water as soon as the concrete is sufficiently hardened to prevent pitting, and shall be kept wet until an earth or other approved covering is placed. As soon as it can be done without damaging the concrete, the surface of the pavement shall be covered with not less than two (2) inches of earth or other material approved by the Engineer, which cover

shall be kept wet for at least ten (10) days. When deemed necessary or advisable by the Engineer, freshly laid concrete shall be protected by canvas until such covering can be placed.

Under the most favorable conditions for hardening in hot weather, the pavement shall be closed to traffic for at least fourteen (14) days, and in cool weather for an additional time, to be determined by the Engineer.

When the average temperature is below fifty (50) degrees Fahrenheit, sprinkling and covering of the pavement may be omitted at the discretion of the Engineer.

The Contractor shall erect and maintain suitable barriers to protect the concrete from traffic and any part of the pavement damaged from traffic or other causes, occurring prior to its official acceptance, shall be repaired or replaced by the Contractor at his expense, in a manner satisfactory to the Engineer. Before the pavement is thrown open to traffic the covering shall be removed and disposed of as directed by the Engineer.

Cold Weather Work.—Concrete shall not be mixed nor deposited when the temperature is below freezing.

If, at any time during the progress of the work, the temperature is, or in the opinion of the Engineer will within twenty-four (24) hours drop to 35 degrees Fahrenheit, the water and aggregate shall be heated, and precautions taken to protect the work from freezing for at least ten (10) days. In no case shall concrete be deposited upon a frozen sub-grade.

Blocking.—Where the finished pavement is to be grooved, the following shall be observed: The concrete shall be struck off and approximately finished at depth of from one-half ($\frac{1}{2}$) inch to one and one-quarter ($1\frac{1}{4}$) inches below the proposed finished grade, and on this surface shall be placed a top course of mortar composed of one (1) part cement to one and one-half ($1\frac{1}{2}$) parts of sand. The mortar shall be placed as quickly as possible after the placing of the concrete, so as to bond thoroughly with same and shall be finished by template and float or belt as specified above. Before the mortar surface has taken its initial set, it shall be neatly and carefully blocked into rectangles six (6) inches by twelve (12) inches by grooves from three-eighths ($\frac{3}{8}$) to three-quarters ($\frac{3}{4}$) inch in width and depth.

The depth of the mortar top depends on the size of the grooves which will be shown on the drawing or described under "Special Requirements." In all cases the depth specified for the completed pavement shall include the mortar top.

Payment.—The price bid per square yard will be for the entire work complete as specified above, and shall include all work necessary under the item of "Grading" when no special price is bid for such work.

When integral concrete curb is used the concrete pavement will be paid for by the square yard surface measure, measuring from back to back of curb, following the contour of the curb and gutter. The shaping and finishing of the integral curb will be paid for under Item 45.

DURAX PAVEMENT—ITEM 62

The quality of the granite shall be equal in all respects to that required for Granite Pavement.

Before the award of the contract the successful bidder shall notify the Engineer where he proposes to obtain the Durax cubes, and shall file satisfactory samples of the proposed blocks. A failure to promptly furnish satisfactory samples shall be sufficient grounds for rejecting the bid.

The Durax blocks shall be nearly cubical, with six irregular, approximately square surfaces, the edges of which shall measure not over four (4) inches nor less than three and one-quarter ($3\frac{1}{4}$) inches, excepting that blocks having one dimension less than the above figure will be accepted in such quantity as may be necessary to make closures.

Foundation.—The sub-grade shall be ten and three-quarters ($10\frac{3}{4}$) inches below and parallel to the finished grade of the roadway; on the sub-grade prepared, as specified under "Grading," Item 1, will be deposited six (6) inches of concrete as specified.

The top of the concrete foundation shall be brought by screeding or otherwise to a grade which shall not vary more than one-quarter ($\frac{1}{4}$) inch at any point from a surface parallel to and four and three-quarters ($4\frac{3}{4}$) inches below the finished surface of the pavement.

Paving Bed.—The paving bed shall consist of a bed of sand-cement mixture approximately one and one-quarter ($1\frac{1}{4}$) inches in average depth and sufficient to bring the surface of the pavement after being thoroughly rolled to the proper grade.

The sand-cement bed shall consist of one (1) part cement to three (3) parts sand thoroughly and uniformly mixed. The sand-cement mixture shall be prepared in only such quantity as can be used before taking initial set and any which has so set, shall be discarded.

On this sand-cement bed Durax blocks shall be laid in concentric interlocking segments as shown on the drawings on file in the office of the Engineer. No part of the joint shall exceed one-half ($\frac{1}{2}$) inch at the surface or shall be less than one-quarter ($\frac{1}{4}$) inch. The blocks, however, must be laid with some points in contact on all sides, so that they will not rock under the roller.

The blocks shall then be rolled with a not-less-than-five-ton roller so as to leave no blocks above or below the general surface of the finished pavement.

After the Durax blocks have been paved and brought to grade by rolling or tamping, the paved surface shall be sprinkled, allowing sufficient water in the joints to thoroughly set the cement, and if pitch-mastic is used for filler the pavement shall be allowed to dry before filler is applied.

Filler.—The filler to be used shall be cement grout or pitch-mastic as specified.

The mixture and application of the cement grout filler or the pitch-mastic filler shall be exactly as that specified under Brick Pavement, Item 59.

Payment.—The price paid per square yard will be for all work and material above the concrete foundation.

GRANITE PAVEMENT—ITEM 63

Granite.—The granite blocks shall be of medium grained granite, showing an even distribution of its constituent materials. It shall be of uniform quality and texture, without seams or discolorations showing disintegration, and free from an excess of mica or feldspar.

Syenite or hard basaltic stone that will polish under traffic, or any soft or weather-worn stone from the surface or sap of the quarry will not be accepted.

Samples.—Before the material from any quarry will be accepted the operator thereof must file in the office of the Engineer four (4) representative samples of the blocks proposed to be furnished. The samples must be labeled with the names of the operator and the name and location of the quarry or quarries. If these samples are satisfactory, all blocks subsequently furnished must be substantially equal to them in all respects. The Contractor must state in his bid the name and location of the quarry or quarries from which he proposes to obtain his material. No change of quarry or quarries will be allowed without permission.

The Contractor shall submit to the Engineer, bills of lading for all cars of granite as soon as shipped.

Dimensions and Dressing.—The size of the blocks shall be as follows: Not less than six (6) inches or more than ten (10) inches long; not less than three and one-half ($3\frac{1}{2}$) inches or more than four and one-half ($4\frac{1}{2}$) inches wide and not less than four and three-quarters ($4\frac{3}{4}$) inches or more than five and one-quarter ($5\frac{1}{4}$) inches deep.

They shall be divided into two classes according to their width, those ranging from $3\frac{1}{2}$ to 4 inches in one class, and from 4 to $4\frac{1}{2}$ inches in another class. They will be shipped in separate cars according to the class in which they come, and so distributed on different parts of the work that they may be placed in pavement in stretches of not less than 100 feet in length.

Short granite blocks used for breaking joints at curbs and rails, shall not be less than five (5) inches long, shall not be under-cut more than one-half ($\frac{1}{2}$)

inch and the ends shall be neatly dressed with block maker's tools in same manner as required for whole blocks.

When approved by the Engineer, the blocks may be of such other dimensions as special construction make necessary.

The blocks shall be substantially rectangular on top and sides, and uniform in thickness. They shall be so cut that the joints between individual blocks when laid shall average not more than $\frac{3}{8}$ inch. The head of the block shall have no depression greater than $\frac{1}{4}$ inch from a straight edge laid in any direction and parallel to the general surface of the block.

Care shall be used in handling the blocks so that the edges and corners shall not be chipped or broken.

If blocks from more than one quarry are permitted, the stones from each quarry shall be piled and laid separately in different sections of the work, and in no case shall the product of different quarries be mixed.

Foundation.—The sub-grade shall be ——— inches below and parallel to the finished grade of the roadway; on the sub-grade prepared, as specified under "Grading," Item 1, will be deposited ——— inches of concrete as specified.

The top of the concrete foundation shall be brought by screeding or otherwise to a grade which shall not vary more than $\frac{1}{4}$ inch at any point from a surface parallel to and 6 inches below the finished surface of the pavement.

Paving Bed.—The paving bed shall be approximately one and one-quarter ($1\frac{1}{4}$) inches in thickness and sufficient to bring the surface of the pavement when thoroughly rolled to the proper grade. It shall consist of (1st) a bed of clean, coarse sand free from pebbles over three-eighths ($\frac{3}{8}$) inch in diameter or (2nd) of a sand-cement bed mixed and prepared exactly as specified for "Brick Pavement." The bed must be prepared only in such quantity and the entire work laid out in such manner that final rolling of the completed pavement takes place before the cement has set, and if any such setting should take place before the rolling, the portion affected must be taken up and repaved on a fresh bed as specified.

Pebbles.—Pebbles for filling joints must be perfectly clean, shall all pass a half-inch screen, and be free of all material passing a 3-16 inch screen. They must be dry when put in the joints, and shall be heated if necessary.

Laying Blocks.—Upon the sand paving bed as specified, the blocks shall be laid in straight courses from curb to curb and at right angles to the lines of the street, except when otherwise directed by the Engineer. The grade and crown shall be as shown on the plan or as directed. End joints shall be broken by a lap of at least 3 inches, and adjoining stones in the same course shall not vary more than $\frac{1}{4}$ inch in width. The blocks shall be set in contact at end joints and with side joints as nearly uniform as practicable, and averaging not more than $\frac{3}{8}$ inch between individual stones.

Guide blocks or head stones shall be set at such intervals as directed by the Engineer.

After the blocks are laid, the joints shall be filled about one-half full with clean, dry pebbles as above specified, only sufficient pebbles being used to prevent the blocks rocking when being rolled.

The pavement shall then be swept clean and rolled with a steam-roller weighing about ten (10) tons, as directed, until the blocks are firmly bedded and are brought to a true and even surface. All low places developed by the rolling shall be taken up, repaved and rerolled, until the pavement is firmly bedded and is brought to an even surface.

Filler.—The filler to be used shall be pitch filler, pitch filler with flush coat, pitch-mastic or cement grout filler, as specified.

(a) PITCH FILLER

The pebbles will then be scratched out to a depth of two and one-half ($2\frac{1}{2}$) inches below the top of the blocks. Hot paving pitch, as below specified, and at a temperature of 300 to 350 degrees Fahrenheit shall be poured into the joints so as to fill all voids in the pebbles.

The remaining depth of the joints will then be filled, flush full, with additional pebbles, as above specified. The pebbles must be gotten into the joints with the smallest possible amount of sweeping, and special care must be taken

to see that the pebbles are perfectly dry and clean and free from all particles smaller than specified. The hot paving pitch shall then be poured into the joints until they absorb no more and the joints are filled flush full with the pitch-and-pebbles concrete. The joints will be repoured as often as necessary to obtain this result. After the satisfactory completion of the joint filling, the entire surface of the pavement will be immediately covered with a $\frac{3}{8}$ inch covering of clean pebbles between $\frac{1}{8}$ inch and $\frac{1}{4}$ inch in size.

This will complete the pavement, which will be immediately thrown open to traffic.

(b) PITCH FILLER WITH FLUSH COAT

The pebbles will be scratched out to a depth of two and one-half ($2\frac{1}{2}$) inches below the top of the blocks. Hot paving pitch, as below specified, and at a temperature of 300 to 350 degrees Fahrenheit shall then be poured into the joints so as to fill all voids in the pebbles.

Additional pebbles will then be poured into the joints to level of one-quarter ($\frac{1}{4}$) inch below the top of the paving and the joints will again be poured with paving pitch.

The remaining depth of the joints will then be filled, flush full, with additional pebbles, as above specified. The pebbles must be gotten into the joints with the smallest possible amount of sweeping, and special care must be taken to see that the pebbles are perfectly dry and clean and free from all particles smaller than specified.

The entire surface of the paving shall then be given a flush coat of paving pitch of melting point satisfactory to the Engineer. This flush coat shall be applied at a temperature of not less than 300 degrees Fahrenheit by means of a rubber squeegee in such manner as to completely fill all joints and leave a light bituminous coating on top of the blocks. A one-quarter ($\frac{1}{4}$) inch covering of clean, dry pebbles of size between one-eighth ($\frac{1}{8}$) and one-quarter ($\frac{1}{4}$) inch will then be evenly applied to the flush coated surface and will be rolled into same with a steam roller.

This will complete the pavement, which will be immediately thrown open to traffic.

(c) PITCH-MASTIC FILLER

The pebbles will be scratched out to a depth of two and one-half ($2\frac{1}{2}$) inches below the top of the blocks. Hot paving pitch as below specified, and at a temperature of 300 to 350 degrees Fahrenheit shall then be poured into the joints so as to fill all voids in the pebbles. The balance of the joints will then be filled with a pitch-mastic filler, mixed and finished exactly as specified for "Brick Pavement."

Coal Tar Paving Cement.—The coal tar paving cement shall be a straight run residue from the distillation of coal tar, and shall comply with the following requirements:

Melting point shall be not lower than 110 degrees Fahrenheit nor higher than 125 degrees Fahrenheit. Test for melting point will be made as specified below:

Free carbon shall be not less than 20% nor more than 35%.

Specific gravity at 77 degrees Fahrenheit shall not be less than 1.22 nor more than 1.30.

Specific gravity of the distillate to 670 degrees Fahrenheit shall not be less than 1.06 at 140 degrees Fahrenheit compared with water at the same temperature.

Test for Melting Point.—A clean shaped one-half ($\frac{1}{2}$) inch cube of the pitch is to be formed in a mold and suspended in a beaker of water so that the bottom of the cube of pitch is one (1) inch above the bottom of the beaker. The pitch is to remain for five (5) minutes in the water at a temperature of 60 degrees F. before heat is applied. Heat is to be applied in such manner that the temperature of the water is raised 9 degrees F. each minute. The temperature recorded by the thermometer at the instant the pitch touches the bottom of the beaker is to be considered the melting point. The filler shall be such that it retains its consistency under extreme ranges of temperature.

The Contractor before beginning work on any contract shall obtain from the Engineer a statement in writing as to the melting points desired for that

particular contract, and a variation of 5 degrees Fahrenheit either way will be permitted from this melting point, but within the limits as indicated above.

(d) CEMENT GROUT FILLER

If the pavement is to have cement grout filler an expansion joint must be left along each curb. The expansion joints shall be of same width and formed in the same manner as prescribed for "Brick Pavement," but the depth of the prepared strips shall be five (5) inches.

After the completion of the rolling as above specified, the pebbles shall be washed out of the joints to a depth of one and one-half ($1\frac{1}{2}$) inch by means of a hose and nozzle and the cement grout filler applied in a manner similar to that specified for brick paving. The first course of grout, however, shall consist of neat cement, no sand whatever being used; this course will be applied in such quantity as to fill the joints to the level of the top of the pebbles. The second course of grout shall be of one (1) part cement to one (1) part sand as specified for brick paving, and shall be applied in such quantity as to fill the joints flush full and leave a slight surplus on the top of the paving.

As soon as the grout has taken its initial set it shall be covered with one-half ($\frac{1}{2}$) inch of sand and shall be kept continuously moist for five (5) days. It must be kept entirely undisturbed for a period of at least ten (10) days or longer if the Engineer so direct.

Payment.—The price bid per square yard for granite pavement will include all labor and material necessary to complete the pavement above the concrete foundation; it will also include all work, as specified under "Grading," Item 1, where no special bid is asked for the grading item.

SPECIAL GRANITE PAVEMENT (For Steep Grades)—ITEM 64

The requirements as to quality and samples to be submitted shall be the same as specified for granite pavement.

Dimensions and Dressing.—The sizes of the blocks shall be as follows: five (5) to seven (7) inches in length, three (3) to four (4) inches in width, and five and one-half ($5\frac{1}{2}$) to six (6) inches in depth. The blocks shall be substantially rectangular. The blocks shall be cut so as to show no inequalities on top ends or sides exceeding five-eighths ($\frac{5}{8}$) inch.

Foundation.—The sub-grade shall be _____ (_____) inches below and parallel to the finished grade of the roadway; on the sub-grade prepared as specified under "Grading," Item 1, will be deposited _____ (_____) inches of concrete as specified.

(a) Paving Bed.—The paving bed will consist of a sand cushion or a sand-cement bed as specified for granite paving.

Paving.—The granite blocks shall be laid by skilled pavers to conform, after completion, to the required grade and crown. The blocks will be firmly bedded on the paving bed and will be laid in parallel courses usually at right angles to the curb, except at intersections, where they shall be laid as directed.

The blocks will be laid with end and side joints not less than one (1) inch nor more than one and one-quarter ($1\frac{1}{4}$) inches in width. Paving pebbles as above specified will then be swept into the joints so as to fill same to a height of two (2) inches down from the top of the blocks. The paving will then be thoroughly rammed to a solid bearing and a true surface, using rammer weighing not less than forty (40) pounds. The pebbles will then be scratched out to a depth of two (2) inches, and a cement grout made and applied as specified under "Cement Grout Filler for Brick Pavement," Item 59, will be swept into the joints. The grout will be swept into the joints so as to fill same to a height of one (1) inch down from the top of the paving, and any surplus above this level must be removed before hardening.

The grouted surface must be protected from the sun, if so directed by the Engineer, by a one-half ($\frac{1}{2}$) inch covering of sand, and must be kept moist for at least five (5) days. All travel must be kept off the pavement for at least ten (10) days, and longer, if so ordered.

Expansion Joint.—The requirements as to expansion joints will be the same as for Granite Pavement.

Crossings.—At such intersections as the Engineer may decide, crossings will be formed of strips of granite pavement conforming to the requirements for Granite Pavement.

Payment.—The price bid per square yard will include all work and material necessary above the concrete base. It will also include work specified under heading of "Grading," where no price is bid for such work. Crossings will be paid for as Granite Pavement.

GRANITE REPAVING—ITEM 65

Under this item the Contractor shall replace, as directed, all granite pavements disturbed in prosecuting the work or the repaving of which is deemed advisable to make the adjoining granite pavement conform to the grade of the new improvement. All the old block used shall be well cleaned. The work done shall conform substantially to the requirements for "Granite Paving," as ordered.

The price bid for granite repaving per square yard shall include the furnishing of all material and work complete above the concrete foundation. Concrete used for the foundation shall be paid for separately under the appropriate item.

GRANITE PAVEMENT WITH OLD BLOCKS REDRESSED—ITEM 66

The existing blocks on the street to be improved shall be recut and redressed in such manner as to form one or more blocks of smaller size. The dimensions of the new blocks, excepting as noted below, shall be as follows: In length not less than five (5) nor more than eight (8) inches; in width not less than three and one-half ($3\frac{1}{2}$) nor more than five (5) inches; in depth not less than four and three-quarters ($4\frac{3}{4}$) nor more than five and one-quarter ($5\frac{1}{4}$) inches.

In cutting the blocks the usual procedure will be as follows: Blocks ten (10) inches or more in length shall be cut transversely to their present length, with the newly cut surfaces constituting the paving faces of the new blocks. Blocks less than ten (10) inches in length, and blocks which, although longer, are so worn that two new blocks as above specified can not be cut therefrom, shall, if possible, be reheaded in such manner as to form one new block eight (8) inches in length.

For the purpose of providing blocks of proper length for beginning and ending the courses with a minimum lap of two (2) inches, as large a number as practicable of short blocks four (4) inches in length, and long blocks eight (8) inches in length, shall be cut from existing short blocks in the street, or shall be obtained by cutting existing blocks of excessive length in such manner as to obtain one long and one short block. The deficiency in closures will be made up by the use of new paving blocks eight (8) inches in length, which, however, shall be used only to the extent considered necessary by the Engineer.

The blocks shall be recut so that the paving face conforms to the requirements for new Granite Blocks as previously specified, and the sides and ends shall be dressed to the extent necessary to allow joints of the same size as specified for new Granite Pavement.

All existing blocks which, in the opinion of the Engineer, are so rough or otherwise defective that new blocks as specified can not be cut from them will become the property of the Contractor, and shall be removed from the work, but no blocks shall be removed until definite orders have been issued by the Engineer.

The redressed blocks shall be separated into three sizes by widths as follows: From three and one-half ($3\frac{1}{2}$) to four (4) inches; from four (4) to four and one-half ($4\frac{1}{2}$) inches; from four and one-half ($4\frac{1}{2}$) to five (5) inches; and each size must be paved in separate portions of the street as specified for new granite pavement.

In all other respects, except as above noted, pavement shall conform to the requirements for Granite Pavement, Item 63.

The paving bed will be of sand or sand-cement, and the filler will be of pitch, of pitch with flush coat, of pitch-mastic, or of cement grout, exactly as specified for new granite paving.

The price bid per square yard shall include all cutting and dressing of blocks, and all work and materials called for above.

LIMESTONE PAVEMENT—ITEM 67

The subgrade shall be eleven (11) inches below and parallel to the finished roadway surface. On the subgrade will be spread a layer of clean gravel, free from stones exceeding one (1) inch in diameter, on which the limestone block will be paved. The layer of gravel shall be approximately four (4) inches in depth.

The limestone blocks for the paving will consist of best grade of Indiana flat rock free from seams. The blocks shall be substantially rectangular and shall have the following dimensions: From eight (8) to twelve (12) inches long, from four (4) to six (6) inches wide and from six and one-half ($6\frac{1}{2}$) to seven and one-half ($7\frac{1}{2}$) inches deep. Projection on face, sides and ends shall not exceed one (1) inch. The blocks will be firmly bedded in the gravel base and paved in courses at right angles to the curbs with end and side joints approximately one (1) inch wide. The joints will then be filled two-thirds full with clean pebbles ranging in size from one-half to one inch in diameter and the paving will be thoroughly rammed with a bowlder rammer. After ramming, the surface of the paving must be true to the prescribed roadway grade and crown.

Expansion joints three-fourths ($\frac{3}{4}$) inch thick and prepared as prescribed for granite paving will be used along each curb.

Grout filler composed of the same ingredients as specified for brick paving will be then swept into the joints in such quantity as to thoroughly fill the joints from the bottom to a depth of one (1) inch down from the top. If this result can not be obtained by one application of grout, one or more additional, such as may be required, shall be made. Before making the second application the Contractor will be allowed to pour into the joints additional pebbles to a depth of one and one-half ($1\frac{1}{2}$) inches down from the top.

Before the grout has become too hard all the joints shall be raked out by means of a tool satisfactory to the Engineer so that the finished top of the grout is at the uniform distance of one (1) inch from the top of the paving.

After the grout has taken its initial set, the pavement will be immediately covered with one-half ($\frac{1}{2}$) inch of sand and must be kept continuously moist for a period of five (5) days and must be kept blocked from all travel for ten (10) days additional and longer if the Engineer so directs.

Payment.—The price bid per square yard for limestone pavement will include all labor and material necessary to complete the pavement above the subgrade.

MACADAM PAVEMENT (WATERBOUND)—ITEM 68

Subgrade.—The subgrade, prepared as specified under "Grading," Item 1, shall be uniformly twelve (12) inches below the finished grade of the roadway.

First Course.—Upon the prepared subgrade, between the gutters will be evenly spread a layer of clean, sound, hard limestone which shall measure not more than four (4) inches nor less than two (2) inches on longest diameters. This layer shall be thoroughly rolled. The thickness of the layer shall be such that after rolling, its upper surface shall be at a uniform height of six (6) inches above the true surface of the subgrade.

Second Course.—Upon the first layer of stone, prepared as described, shall be evenly spread a layer of crushed limestone to such a depth that, after completion, the surface shall be uniformly twelve (12) inches above the true subgrade. This stone shall be composed of clean fragments of sound hard limestone of size varying from one (1) inch to two and one-half ($2\frac{1}{2}$) inches in maximum dimension. Before being rolled the upper surface must be harrowed or forked in such manner that the various sizes of stone are uniformly distributed. This layer will then be repeatedly rolled and wetted, new material being added where low spots appear until ultimate compression and an even surface have been obtained.

Screenings.—Sound, hard limestone screenings will be used for the finishing course. These screenings will be such as will entirely pass a three-quarter ($\frac{3}{4}$) inch screen, but must not contain more than thirty (30) per cent. of stone dust. The screenings must be free from dirt, clay, shale or any foreign matter. The screenings after being spread will be wetted and thoroughly rolled. The wetting and rolling shall be continued until the surface is packed firm. The amount of screenings to be used will be the minimum required to thoroughly pack the roadway.

The Contractor will be required to get the screenings on the street in a manner which will not materially disturb the compacted second layer. All rolling will be done with a steam roller giving a pressure of at least two hundred and fifty (250) pounds per lineal inch of roller.

Oiling.—Where oiling is specified the completed roadway as above described shall be thrown open to travel for a period of two or more weeks, as the Engineer may direct, and shall then be thoroughly swept clean and be given an application of asphaltic road oil, followed by an application of coarse sand sufficient to absorb the oil. The oil and its method of application shall conform in all respects to the requirements as given under Item 69.

Crossings and Gutters.—Crossings and gutters for macadam streets will consist of strips of "Concrete Pavement" or "Brick Pavement," as specified. Crossings will be five (5) feet wide; gutters will be of widths as shown on the plans. If brick crossings and gutters are specified, the work will conform in all respects to the specifications for Brick Pavement. The concrete foundation shall extend four (4) inches beyond the edges of the paving.

The paving for brick cross-walks will not be done until the completion of the rolling of the macadam surface, the space for the brick paving and mortar cushion being occupied during the rolling by a temporary filling of broken stone. After the completion of the rolling this filling will be removed and the brick paving laid as specified.

If concrete gutters and crossings are specified, the work shall conform to the requirements for "Concrete Pavement," except that the gutters will have a sub-base of ——— (——) inches of clean cinders and the crossings a sub-base of five (5) inches of broken stone, as specified above for brick.

Concrete crossings will not be constructed until after the completion of the rolling of the macadam; the space being occupied during the rolling by a temporary filling of broken stone.

Expansion joints one-quarter ($\frac{1}{4}$) inch in width of character specified under "Concrete Pavement," shall be inserted every twelve (12) feet in concrete gutters and crossings. The intermediate six (6) foot points shall be cut with a joiner. Concrete gutters will be finished with wood float and edger. Concrete crossings will receive a one-half ($\frac{1}{2}$) inch mortar top, and will be blocked into six (6) inch squares by three-eighths ($\frac{3}{8}$) inch grooves. The finish will be by wood float.

Payment.—The price bid for macadam pavement per square yard will include furnishing and placing all the stone, screenings, all rolling, sprinkling and all other materials and labor necessary to complete the pavement above the sub-grade as specified. It will also include all work as specified under "Grading," Item 1, where no bid is requested for the grading item.

Brick crossings and gutters will be paid for by the square yard of brick paving and the cubic yard of concrete at the prices bid.

Concrete crossings and gutters will be paid for by the square yard at the price bid.

RESURFACING, FINISHING, ROLLING AND OILING ROADWAY—ITEM 69

General.—This work will be done in connection with the resurfacing of existing water-bound macadam roadways. The resurfacing shall be done in general accordance with the specifications for water-bound macadam, except that the old roadway shall be used as the subgrade. Where the amount of stone required for the resurfacing is six (6) inches or less in depth, the entire amount shall be as required for the top layer of macadam; where more than six (6) inches of stone is required, the excess may be as required for the first layer of macadam and shall be thoroughly rolled. Before any stone is placed on the roadway, the old surface between the gutters shall be thoroughly scarified.

The top surface of the completed roadway shall be finished as specified for water-bound macadam, and shall be thrown open for travel for a period of two or more weeks, as the Engineer may direct, and shall then be thoroughly cleaned of dust and receive an application of asphaltic oil, as below specified.

Sample.—Before any oil is applied a one (1) pint sample shall be submitted to the Engineer. This sample must conform to the following tests, and after approval the oil must conform exactly to the sample. Failure to submit satisfactory sample within a reasonable time will be considered breach of contract.

Oil Requirements.—(a) Sample must be labeled with the name of the Contractor, and the name and location of the manufacturer.

(b) The oil shall be an asphaltic oil meeting the following requirements:

Oil.—This material shall be an asphaltic oil meeting the following requirements:

(1) The oil shall be the residuum obtained from the distillation of petroleum with an asphalt base.

(2) The gravity at 60 degrees F. shall be from 15 to 18 degrees Be.

(3) Flash test (closed tester), 350 degrees F.

(4) Fire test, 425 degrees F.

(5) When 20 grams of the oil are heated for 5 hours at 325 degrees F. in a constant-temperature oven, the loss shall not be more than 4%. The dish used shall be 1½ inches deep and 2¼ inches in diameter.

(6) A similar five-hour test at 400 degrees F. shall not show over 10% loss and the residue shall be very adhesive.

(7) The paraffine scale by the Helde Method shall not be over 4%.

(8) The asphalt contents, 100 penetration at 77 degrees F., shall not be less than 60%, the evaporation being carried on in the open air at the lowest possible temperature.

All oil used on the contract must conform exactly as to the sample and to the above specifications, and shall be applied as follows: The oil shall be distributed over the roadway by means of a special appliance so arranged as to enable the operator to distribute the oil uniformly over the surface and to control the flow, both as regards the quantity applied, which shall be not less than one-half (½) gallon of oil to one (1) square yard of surface, and the width of the strip to be treated. Special attention shall be taken to avoid spreading any oil on street car rails, cross-walks and gutters. Should any spots or streaks occur, the Contractor must broom same until the entire surface is covered with oil.

After completion of the application as above specified, clean, coarse sand shall be uniformly distributed over the oiled surface by means of a sand spreader, using approximately one (1) cubic yard of sand for every one hundred and sixty (160) square yards of surface oiled. The sand used must be such as will meet the approval of the Engineer. All cross-walks shall be suitably covered with sand to prevent tracking the oil. The roadway shall be oiled in stretches of approximately four hundred (400) feet, each stretch to be blocked off until the oil has dried. The entire width of the roadway is to be oiled at one operation.

The Contractor will be required to furnish such evidence as the Engineer may require as to the origin and amount of each separate tank of oil used on the work.

Payment.—The above described resurfacing will be paid for under two items: First, under Item 48, the broken and crushed stone (including screenings) will be paid for by the cubic yard of material actually used, measured in place after compaction. Second, the finishing, rolling and oiling will be paid for by the superficial area of the finished surface.

BITUMINOUS MACADAM PAVEMENT—ITEM 70

Stone.—The stone to be used for macadam shall be clean, sound, hard limestone or other stone deemed equally acceptable, broken or crushed, to the sizes specified.

All rolling shall be done as directed with a roller weighing not less than 250 pounds per inch of width of rollers.

Bituminous Binders.—The bituminous binder to be used shall be an asphaltic binder or a refined coal tar. The Contractor will be required to submit for testing a sample of the binder to be used. This sample shall contain one (1) pint and shall be labeled with the name of the street and the name of the manufacturer. It shall be submitted at least two weeks before any material is used and after approval all material furnished must be in strict accordance with the sample and the specifications below.

Asphaltic Binder.—The asphaltic binder shall have the following characteristics:

(1) It shall be free from water.

(2) The various hydrocarbons composing it shall be present in a homogeneous solution.

(3) It shall have a specific gravity at 77 degrees F. of not less than 0.97.

(4) The penetration shall be between 14 and 19 millimeters when tested for 5 seconds at 77 degrees F. with a No. 2 needle, weighted with 100 grams.

(5) Fifty grams of it, upon being maintained at a uniform temperature of 325 degrees F. for 5 hours in a cylindrical vessel, 5½ centimeters in diameter by 3½ centimeters high, shall not lose more than 5% in weight. The penetration (5 seconds, 77 degrees F., No. 2 needle, 100 grams weight) of this residue shall be at least 50% of the original penetration.

(6) Its solubility at air temperature in chemically pure carbon disulphide for the following named materials, or materials similar thereto, shall be at least 99.5% for pure bitumen products, 96% for Bermudez products, 81% for Cuban products and 66% for Trinidad products.

(7) It shall show an open flash point not less than 375 degrees F.

(8) It shall have a ductility at 77 degrees F. of not less than 40 centimeters (Dow mold).

Refined Coal Tar.—The coal tar shall be a residue of the distillation of coal tar only, and shall be refined for the special purpose of making pavement. No mixture of hard pitch with the lighter oils of coal tar will be permitted. The specific gravity of the coal tar shall not be less than 1.15 nor more than 1.26 at 60 degrees F. Its viscosity, determined by Engler Standard Viscosimeter, shall be not less than 100 nor more than 200 seconds for 100 c. c. at 212 degrees F. It shall contain not less than 20% nor more than 30% free carbon insoluble in benzol.

The melting point shall be between 100 and 110 degrees F.

The coal tar shall be free from water as determined by distillation, and shall show upon ignition not more than ½% of inorganic matter. No distillate shall be obtained lower than 338 degrees F.; and up to 600 degrees F., not less than 10% nor more than 25% of distillate shall be obtained. This distillate shall have a specific gravity of not less than 1.02 at 60 degrees F. The residue shall have a melting point of not more than 165 degrees F. In making the distillation an eight-ounce glass retort shall be used, and the thermometer suspended so that before applying the heat, the bulb of the thermometer is one-half inch above the surface of the liquid. The melting point shall be obtained by suspending a one-half inch cube in a beaker of water one inch above the bottom. The temperature shall be raised nine degrees per minute from 60 degrees F. The temperature at the instant the pitch touches the bottom shall be considered the melting point of the pitch.

Subgrade.—The subgrade, prepared under "Grading," Item 1, shall be parallel to the finished roadway and at a depth below same equal to the total thickness of the proposed pavement.

Thickness of Pavement.—Bituminous macadam shall be constructed of either nine (9) or twelve (12) inches thickness, depending on the character of soil, drainage, traffic, etc. The type to be used on each particular street will be noted on the drawing, and also specified under the heading of "Special Requirements." If the pavement is to be of the nine (9) inch thickness, it will be constructed of two courses: the first course six (6) inches, and the top course three (3) inches. If the pavement is to be of the twelve (12) inch thickness, it will be constructed in three courses: the first course five (5) inches, the second course four (4) inches, and the top course three (3) inches.

First Course, Nine (9) Inch Pavement.—Upon the prepared subgrade a layer of stone varying from 2 to 4 inches in maximum dimensions shall be evenly spread between the gutters. This course shall be thoroughly rolled until it does not appreciably creep or wave ahead of the rollers. Stone screenings or sand shall then be uniformly spread over the surface in small quantities by shovels from carts or piles alongside the road and the rolling continued, sweeping in the screenings meanwhile until no more will go in dry, when the surface shall be well sprinkled by an approved sprinkler, screenings being added where necessary and the rolling continued until the surface is satisfactorily finished. The surface shall be left with the clean stone projecting for a bond, leaving no loose material on the surface. When compacted the first course shall be at a uniform depth of three (3) inches below the proposed finished surface of the completed pavement.

First and Second Courses, Twelve (12) Inch Pavement.—The character of the stone for the first and second courses of the 12-inch pavement shall be exactly

similar to that above specified, and the top of the second course shall be finished as specified for the top of the first course of the nine (9) inch pavement. The stone, however, shall be put on in two layers, one of five (5) inches after compaction and the other of four (4) inches after compaction, so that the top of the second course after rolling shall be at a uniform depth of three (3) inches below the proposed finished surface of the completed pavement.

Top Course.—Upon the surface, as previously specified, shall be evenly spread a layer of stone varying from $1\frac{1}{2}$ to $2\frac{1}{2}$ inches in maximum dimensions. This course shall be thoroughly rolled until the individual fragments have keyed together, the surface, while even and conforming to the required crown, shall be left open or porous in order to allow the penetration of the hot bituminous binder. When completed this course shall have a thickness of three inches.

Application of Binder.—The binder shall be heated in an approved heater equipped with a fixed or portable thermometer which will clearly and accurately indicate the temperature of the binder. The bituminous binder, if asphalt, shall be heated to a temperature between 250 and 350 degrees F.; if tar, between 250 and 300 degrees F., and shall be uniformly distributed over the macadam by suitable appliances at a rate of between one and three-quarters ($1\frac{3}{4}$) and two (2) gallons to the square yard. Directly after application, clean chips from crushed boulders, gravel or granite or equally satisfactory stone chips free from dust and consisting of fragments which will pass a five-eighth ($\frac{5}{8}$) inch ring, but be retained upon a one-quarter ($\frac{1}{4}$) inch screen shall be spread over the surface in sufficient quantities to fill the surface voids and prevent the binder from sticking to the wheels of the roller. Care shall be exercised not to apply more stone chips than will just fill the interstices, and any surplus material shall be swept from the surface, as directed. The road shall then be rolled until solid, more stone chips or screenings being applied as required in order to maintain satisfactory conditions.

A seal, flush or squeegee coat of the hot binder shall be uniformly distributed over the surface at a rate of at least one-half ($\frac{1}{2}$) gallon to the square yard. Clean, dry stone chips or screenings such as previously described or washed torpedo sand shall then be spread over this seal coat in just sufficient quantity to take up all excess of binder and form a smooth, well-bonded surface when rolled. The road shall be rolled until smooth and firm and to the proper line and grade.

The stone must be dry and free from dirt or dust at the time of applying the bituminous binder. The application of binder shall not be made when the atmospheric temperature is below 40 degrees F., unless specially permitted by the Engineer.

Surface Treatment.—Previous to the final acceptance of the street at the expiration of the guarantee period, the Contractor will be required to thoroughly clean the roadway and give the entire surface a flush coat of distilled tar or emulsified asphalt of such consistency as will allow its being applied cold. The surface treatment will be followed by a light coat of torpedo sand evenly distributed.

The amount of tar to be applied will be such as to thoroughly cover the entire roadway, but without any excess. All material and method of work must be satisfactory to the Engineer.

The Contractor will be required to do the above work at such time as the weather is suitable for such work, and it is thoroughly understood that this work is an integral part of the contract, that the Contractor has allowed for the cost thereof in making his bid for bituminous macadam, and that he is not entitled to the retained ten (10%) per cent. until the work has been done to the satisfaction of the Engineer.

Crossings and Gutters for bituminous macadam streets shall be the same as specified for water-bound macadam.

Payment.—The price bid per square yard for this item shall include furnishing all materials and doing all the work necessary to complete the pavement as herein specified above the subgrade. In case no separate item appears for grading, the price bid shall also include the work provided for under "Grading," Item 1.

Crossing and gutters will be paid for as specified for water-bound macadam.

RESURFACING WITH BITUMINOUS MACADAM—ITEM 71

The work consists in resurfacing the existing macadam roadway with a three (3) inch wearing course corresponding to the top course as specified for Bituminous Macadam. The work will conform in all respects to the requirements for the above pavement, except that the existing roadway will supply the place of the first course of stone. Before commencing work on the wearing course the old roadway shall be thoroughly cleaned, all places shall be trimmed off which project above a grade three (3) inches below and parallel to the proposed finished roadway, and all holes and depressions below the bottom grade of the wearing course shall be filled with broken stone of sizes from one (1) to two and one-half (2½) inches. All such places shall be well rolled and covered with screenings as required for the first course of Bituminous Macadam.

Surface Treatment.—Streets resurfaced with Bituminous Macadam will be given a surface treatment exactly as previously specified before final acceptance at the end of the guarantee period.

Payment.—The broken stone and screenings below the grade of three (3) inches wearing course, will be paid for by the cubic yard wagon measure, as delivered on the work. The price bid per square yard for resurfacing with bituminous macadam will include all other work and material necessary to complete the pavement specified.

WOOD BLOCK PAVEMENT—ITEM 72

General.—Each proposal must be accompanied by a letter from one or more wood block manufacturers, each letter giving the location and capacity of his plant or plants and stating that the said manufacturer is familiar with and understands these specifications, and that he is ready and willing to furnish to the bidder if the contract be awarded to same, wood blocks manufactured in strict accordance with these specifications and in sufficient quantity to complete the improvement within the required time.

After the opening of bids, the successful bidder, if so requested by the Engineer, shall within five (5) days after such request, furnish for testing samples of all materials desired. Should the material which the Contractor proposes to use be found for any reason unsatisfactory, then the Contractor must supply other material which will be acceptable. Failure to do so will be deemed cause for rejection of his bid and forfeiture of bidding bond or deposit.

The successful bidder must also within five days from opening of bids send a letter to the Engineer stating the plant from which he proposes obtaining the blocks, and which of the three below mentioned methods of separation he proposes to use. No change in the above will be permitted without the written permission of the Engineer.

Timber.—The wood to be treated shall be Southern yellow pine, Norway pine or Tamarack, only one kind of wood, however, to be used in any one contract. The blocks must be cut from what is known as prime timber, namely: All timber must be sound, well manufactured, sawbuted, all square edge, and shall be free from the following defects: unsound, loose and hollow knots, worm holes and knot holes, through shakes and round shakes that show on the surface.

The number of annual rings in the one inch which begins two inches from the pith of the block shall not be less than six, measured radially, provided, however, that blocks containing between five and six rings in this inch shall be accepted if they contain 33 1/3 per cent. or more summer wood. In case the block does not contain the pith, the one inch to be used shall begin one inch away from the ring which is nearest to the heart of the block. The blocks in each charge shall contain an average of at least 70 per cent. of heartwood. No one block shall be accepted that contains less than 50 per cent. of heartwood.

Size of Blocks.—The blocks shall be six to ten inches long, but shall average eight inches; they shall be three and one-half inches in depth and three inches in width. A variation of one-sixteenth of an inch shall be allowed in the depth, and one-eighth of an inch in the width of the blocks from that specified.

In case blocks with integral lugs are used, the specified width shall be interpreted to be to the outside edge of the lugs, and in such case the allowable variation in width shall be only one-sixteenth of an inch.

The blocks used may be the ordinary rectangular blocks of the above dimensions, or they may be blocks with special provisions for spacing. Under head of Special Requirements will be specified the kind of blocks to be used. If blocks with special provisions for spacing are required, the following shall be observed.

Provision for Spacing.—The blocks shall be provided with satisfactory means of separation, so that, when laid, they shall be firmly held apart all around a distance of not less than three-sixteenths ($\frac{3}{16}$) inch nor more than one-quarter ($\frac{1}{4}$) inch. This separation may be obtained by any one of the three following methods:

1st—There shall be driven four (4) nails on one side and two (2) nails on one end of each block. The nails shall penetrate the blocks approximately three-quarters ($\frac{3}{4}$) inch and shall project uniformly one-quarter ($\frac{1}{4}$) inch. To insure the uniformity of this projection the nails must be double headed or conical headed with exactly one-quarter ($\frac{1}{4}$) inch from the base to the outside of head. The diameter of the base against the wood shall be approximately one-quarter ($\frac{1}{4}$) inch. The nails in end of the block shall be in the vertical center line and three-quarters ($\frac{3}{4}$) inch from top and bottom. The nails in the side shall be in pairs one (1) inch from ends and three-quarters ($\frac{3}{4}$) inch from top and bottom.

2nd—Each block shall have two vertical lugs on one side and one vertical lug on one end. The lugs shall be V-shaped, shall extend the full length of the block and shall be an integral part of the wood. The lugs shall project three-sixteenths ($\frac{3}{16}$) inch from the body of the block and shall be approximately one-quarter ($\frac{1}{4}$) inch wide at the base. The end lug shall be in the center line of the block and the side lugs shall be spaced five (5) inches apart equally distant from the center line.

3rd—Three creosoted strips or spacers may be nailed to each block. These strips shall be of same cross-section and length as the lugs above described, and shall be fastened to the blocks in the same position. Each strip shall have two small wire nails penetrating three-quarters ($\frac{3}{4}$) inch into body of block.

Preservative.—The preservative to be used may be either a coal-tar distillate oil "A" or a coal-tar paving oil "B" as herein specified.

Oil "A" Coal-Tar Distillate.—The oil shall be a distillate of coal gas tar or coke oven tar, and shall comply with the following requirements:

1. It shall not contain more than 3% of water.
2. It shall not contain more than 0.5% of matter insoluble in benzol.
3. The specific gravity of the oil at 38 degrees C. shall not be less than 1.06.
4. The distillates based on water-free oil shall be within the following limits:
 - Up to 210 degrees C., not more than 5%.
 - Up to 235 degrees C., not more than 15%.
 - The residue above 355 degrees C., if it exceeds 10%, shall have a float test of not more than 50 seconds at 70 degrees C.
5. The specific gravity of the fraction between 235 degrees C. and 315 degrees C. shall not be less than 1.02 at 38°/15.5° C.
 - The specific gravity of the fraction between 315 degrees C. and 355 degrees C. shall not be less than 1.09 at 38°/15.5° C.
6. The oil shall yield not more than 2% of coke residue.

Oil "B" Coal-Tar Paving Oil.—The oil shall be a coal-tar product of which at least 65 per cent. shall be a distillate of coal-gas tar or coke-oven tar, and the remainder shall be refined or filtered coal-gas tar or coke-oven tar. It shall comply with the following requirements:

1. It shall not contain more than 3% of water.
2. It shall not contain more than 3% matter insoluble in benzol.
3. The specific gravity of the oil at 38 degrees C. shall not be less than 1.07 nor more than 1.12.
4. The distillates based on water-free oil shall be within the following limits:
 - Up to 210 degrees C., nor more than 5%.
 - Up to 235 degrees C., not more than 25%.
 - The residue above 355 degrees C., if it exceeds 35%, shall have a float test of not more than 80 seconds at 70 degrees C.

5. The specific gravity of the fraction between 235 degrees and 315 degrees C. shall not be less than 1.02 at 38°/15.5° C.
The specific gravity of the fraction between 315 degrees and 355 degrees C. shall not be less than 1.09 at 38°/15.5° C.
6. The oil shall not yield more than 2% coke residue.

Treatment.—The timber may be either air seasoned or green, but should preferably be treated within three months from the time it is sawed. Green timber and seasoned timber shall not, however, be treated together in the same charge. The block shall be treated in an air-tight cylinder with the preservative heretofore specified. In all cases, whether thoroughly air-seasoned or green, they shall first be subject to live steam at a temperature between 220 and 240 degrees F., for not less than two hours nor more than four hours, after which they shall be subjected to a vacuum of not less than 22 inches, held for at least one hour. While the vacuum is still on, the preservative oil, heated to a temperature of between 180 degrees and 220 degrees F., shall be run in until the cylinder is completely filled, care being taken that no air is admitted. Pressure shall then be gradually applied not to exceed 50 pounds at the end of the first hour, nor a hundred pounds at the end of the second hour and then maintained at not less than 100 pounds nor more than 150 pounds until the wood has absorbed the required amount of oil.

After this a supplemental vacuum shall be applied, in which the maximum intensity reached shall be at least 20 inches and shall continue for a period of not less than 30 minutes. This vacuum shall be either preceded or followed by a short steaming period.

In any charge the blocks shall contain at least 16 pounds of water-free oil per cubic foot of wood at the completion of the treatment. The blocks after treatment shall show satisfactory penetration of the preservative, and in all cases the preservative must be diffused throughout the sapwood. To determine this, at least 25 blocks shall be selected from various parts of each charge, and sawed in half at right angle to the fibres through the center, and if more than one of these blocks show untreated sapwood the charge shall be retreated. After retreating, the charge shall again be subjected to a similar inspection.

The surface of the blocks after treatment, shall be free from deposit of objectionable substances, and all blocks that have been materially warped, checked or otherwise injured in the process of treatment shall be rejected.

Handling Blocks After Treatment.—Blocks shall preferably be laid in the street as soon as possible after being treated. If they can not be laid within two days, provision shall be made to prevent them from drying out by stacking in close piles and covering them, and, if possible, sprinkling them thoroughly at intervals. The blocks shall be well sprinkled, under the direction of the Engineer, about two days before being laid.

Inspection.—All material herein specified and processes used in the manufacture of the blocks therefor, shall be subject to inspection, acceptance or rejection at the plant of the manufacturer, which shall be equipped with all the necessary gauges, appliances and facilities to enable the inspector to satisfy himself that the requirements of the specifications are fulfilled.

Each time the manufacturer of the blocks is ready to make blocks, he shall notify the Engineer sufficient time in advance to allow inspector to reach the plant. No blocks shall be manufactured except when the inspector is at the plant.

The City shall have the further right to inspect the blocks after delivery upon the street, for the purpose of rejecting any blocks that do not meet these specifications, except that the plant inspection shall be final with respect to oil and treatment.

Concrete Base.—Where the street to be improved has no old concrete base, or where, if same exists, it is deemed so defective as to require replacement, the subgrade for the concrete base shall be prepared and rolled as specified under the head of Grading, Item 1, so as to be _____ inches below and parallel to the grade of the finished paving. On this subgrade will be deposited a layer of concrete of the required class and to a depth of _____ inches.

The top of the concrete foundation shall be brought by screeding or otherwise to a grade which shall not vary more than one-quarter (¼) inch at any point

from a surface parallel to and four and one-quarter ($4\frac{1}{4}$) inches below the finished surface of the pavement.

Where the street to be improved has an existing concrete base which is to be retained, an additional layer of concrete of the required class shall be spread over the old base to such depth as is necessary to form a surface of the same grade as is above specified for a new concrete base. This work shall be done as specified under the head of Concrete, Items 30-32.

Sand-Cement (Mortar) Bed.—Upon the concrete foundation shall be spread a layer of mortar $\frac{3}{4}$ inch in thickness and made of one part of Portland Cement and three parts of sand. Only sufficient water shall be added to this mixture to insure a proper setting of the cement, the intention being to produce a granular mixture which may be raked to the desired grade. The mortar shall be thoroughly mixed and shall be spread in place on the foundation immediately in advance of the block laying to such a thickness that when the blocks are set and properly bedded in the mortar, their tops shall conform accurately to the finished grade of the roadway. The concrete foundation shall be cleaned and swept and shall be thoroughly dampened immediately in advance of placing the mortar bed. The mortar bed shall be struck by templates to a surface parallel to the grade and contour of the finished pavement.

Laying.—Upon the bed thus prepared, the blocks shall be carefully set with the fiber of the wood vertical, in straight parallel courses, leaving a space next the curb one (1) inch (or more if the Engineer shall direct) in width for an expansion joint. Strips of wood with wedges behind shall be used to keep the expansion joint even. The courses will usually be laid at right angles to the curb lines, but the Engineer will give directions for the angle to be used from time to time.

The blocks shall be laid close together on the prepared bed with joints not less than three-sixteenths ($\frac{3}{16}$) inch and not more than one-quarter ($\frac{1}{4}$) inch in width. If the blocks used are ordinary rectangular blocks without lugs or other provisions for spacing, no joint shall exceed one-eighth ($\frac{1}{8}$) inch in width.

Nothing but whole blocks shall be used, except in starting a course or in such other case as the Engineer may direct, and in no case shall less than one-third of a block be used in breaking joints. Closures shall be carefully cut and trimmed by experienced men. The portions of the blocks used for closures must be free from check or other fracture and the cut end must have a surface perpendicular to the top of the block and cut to the proper angle to give a close, neat joint.

Immediately after the pavement is laid the strips in the expansion joint shall be removed and the joint filled to a depth of one-half ($\frac{1}{2}$) inch with clean, dry, fine sand and then to an additional depth of one (1) inch with paving pitch as specified below. At the same time the entire surface of the pavement shall be swept clean and covered with a light layer of clean, fine, dry sand which shall be broomed into the joints so as to fill same to a depth of not less than one-quarter ($\frac{1}{4}$) nor more than one-half ($\frac{1}{2}$) inch. If too much sand is gotten into any of the joints, such places shall be taken up and repaved.

The blocks shall then be immediately rolled both parallel and diagonal to the curb, by a tandem roller of approximately five tons weight, until the surface is smooth and true to the grade and contour of the pavement.

The entire operation of block laying, sand filling and rolling must proceed in such rapid sequence that the rolling is completed before the mortar bed has set. If any of the mortar bed has set before the completion of the rolling, the blocks shall be taken up, the old mortar bed removed and the blocks repaved on a fresh mortar bed.

Pitch-Mastic Filler.—Immediately after the completion of the rolling, the joints between the blocks shall be filled with a pitch-mastic filler, complying with the following:

The mastic filler shall consist of a mixture of Paving Pitch of a quality hereinafter described and hot, dry sand of fineness hereinafter specified in the proportion of — part pitch and — part sand by volume, or as much sand up to that proportion as the pitch will carry.

The paving pitch shall be a straight run residue obtained from the distillation of coal tar. Its specific gravity at 77 degrees F. shall not be less than 1.22

nor more than 1.30. It shall have a melting point of not less than 135 degrees F. nor higher than 150 degrees F. by the cube method of testing, and shall have a free carbon content of not less than 20 per cent. nor more than 30 per cent.

On distilling 100 grams of the material, no distillate shall come over below 336 degrees F. (169 deg. C.). On continuing the distillation to 600 degrees F. (315 deg. C.) not more than 15 per cent. of distillate shall come over, and the specific gravity of the entire distillate shall not be less than 1.03 at 60 degrees F. (15.5 deg. C.).

The residue from the foregoing distillation shall have a melting point not greater than 165 degrees F. (74 deg. C.).

The sand shall be fine, clean and moderately sharp. All of it shall pass a 16-mesh screen and not more than 6 per cent. shall pass a 200-mesh screen.

The sand shall be thoroughly mixed with the paving pitch either by hand stirring or by a mixture machine of approved construction. At the time of mixing, the sand shall be heated to a temperature of 400 degrees F., and the pitch to a temperature of 360 degrees F.

After mixing thoroughly the mastic filler shall be immediately flushed into the joints to the full depth thereof by means of approved squeegee or push brooms. The joints shall be filled flush with the surface of the pavement and shall be repoured where settlement occurs.

The pavement will then be given a top dressing of clean, coarse, sharp sand, spread uniformly to a depth of about one-eighth ($\frac{1}{8}$) inch over the entire surface.

Method of Testing.—All tests of materials required by the above specifications shall be carried out exactly in accordance with the methods adopted by the Society of Municipal Improvements at the 1916 meeting.

Payment.—The price bid per square yard will include furnishing and laying the mortar cushion, all wood block and all other materials and labor necessary to complete the pavement above the concrete foundation as specified. It will also include all work under "Grading," Item 1, where no bid is requested for the grading item

WOOD BLOCK REPAVING—ITEM 73

Under this item the Contractor shall replace as directed all wood block pavement disturbed in prosecuting the work or the repaving of which is deemed advisable to make the adjoining wood block pavement conform to the grade of the new improvement. All the old block used shall be well cleaned. The work done shall conform substantially to the requirements for "Wood Block Pavement," as ordered.

The price bid per square yard shall include the furnishing of all material and work complete above the concrete foundation. Concrete used for the foundation shall be paid for separately under the appropriate item.

WATER MAINS AND APPURTENANCES—ITEMS 79 to 88, Inclusive

Items 79 to 88, inclusive, cover the furnishing, hauling and laying complete of water pipe and all appurtenances thereto. All work and material under these items shall be in accordance with the general specifications of the City Water Works in force at the time of the opening of the bids, copies of which may be obtained from the Superintendent of Distribution. All work under these items shall be done under the supervision and inspection of the City Water Works.

The Contractor must obtain from the [insert name of office], upon order issued by the Superintendent of Distribution, all the following material used in the work:

Straight Hub and Spigot Cast Iron Pipe,
Special Castings,
Cast Iron Manhole Curbs and Covers,
Valves and Valve Boxes.

The price to be paid by the Contractor for all such material shall be the standard price fixed by the City Water Works. Payment for this material shall be made by the Contractor to the City Water Works, within 30 days after the receipt of material. An interest charge at the rate of 5 per cent. per annum will be made on all accounts not paid within the above mentioned time. No final estimate for

street improvement will be allowed until payment is made to the City Water Works for material furnished.

The method of measurement and payment of the above items shall be as provided in the specifications of the City Water Works, except that no allowance will be made for extra excavation or for rock excavation.

READJUSTING VALVE BOXES—ITEM 89

Where it is necessary to raise, lower or readjust water valve boxes, the Contractor will excavate to a depth of 8 inches below the new level of the lower flange of the box, and to a width of 9 inches around the outer face of same. Concrete Class III will then be deposited to the depth and width of the excavation specified above and the valve box reset on the new base when properly adjusted to the new surface of the proposed pavement. New boxes and covers when ordered will be paid for separately.

Payment.—The price bid shall be for the work complete as specified above.

LOWERING WATER MAIN—ITEM 90

Under this item, the existing water main shall, if necessary, be lowered to such depth that the top of the pipe shall be three and one-half (3½) feet below the surface of the proposed roadway.

The work shall be done under the inspection and to the satisfaction of the Superintendent of Distribution of the City Water Works.

The price bid per lineal foot for lowering the main shall also include necessary excavation and refilling, recaulking of all joints, and all other work necessary or incidental to the lowering and readjustment of the water main and appurtenances.

LOWERING SERVICE BRANCHES—ITEM 91

Under this item, the existing service branches will be lowered to a depth of approximately 3½ feet below the surface of the proposed roadway, from the main to the property line.

The price bid shall be in full for all work and material necessary in the lowering, including any additional service pipe if necessary.

REMOVING EXISTING WATER MAINS—ITEM 92

The price bid per lineal foot for removing existing water mains, where new and larger mains are laid to replace them, shall be in full compensation for any additional excavation, removing from trench, and cutting pipe at each joint and placing same in convenient position for hauling away by the Water Department. The pipe, valves, lead and any other material shall remain the property of the Water Department.

CONNECTING SERVICE BRANCHES—ITEM 93

The price bid for connecting service branches shall be in full compensation for the removal from existing main and connecting with ferrule in new main, including the making of joints and the furnishing of any additional service pipe that may be required. Service pipe furnished must conform with the Water Works standard for each size pipe. The Water Department will, at its own expense, furnish and insert all new ferrules.

CONCRETE CLASS I—ITEM 94, AND BRICK MASONRY—ITEM 95

These relate to concrete and brick masonry constructed in connection with the installation of the water distribution system. All work and material shall correspond to the requirements of Items 30 and 36 for similar work in connection with the street improvement proper.

BRICK VALVE CHAMBERS COMPLETE—ITEM 96

Brick valve chambers shall be built in accordance with standard plans on file in the office of the Superintendent of Distribution of the City Water Works. Brick work shall conform to the requirements of Brick Masonry, Item 36. Cast-

ings shall conform to the requirements of Cast Iron as specified under Item 27. The work will be done under the inspection and to the satisfaction of the Superintendent of Distribution of the City Water Works.

Payment.—The price bid per valve chamber shall include all excavation and backfill and furnishing and placing of all masonry material, furnishing, painting and setting of all castings.

In witness whereof, the said City of X has caused its name and corporate seal to be affixed by the Director of Public Service, and the said party of the second part set ——— hand— and seal— the day and year aforesaid.

.....[Seal]
[Seal]
[Seal]

See references under § 3821.

§ 3832. Contract for sidewalk improvement—Public corporation.

Contract between the City of ———, of the first part, and A. B., Contractor—, of the second part, for constructing sidewalks and appurtenances in ———, Sidewalk District No. ———, for the season ending December 31, 19—, ———, in pursuance of the following, to-wit:

1. Bids duly advertised for in ———, commencing ———, 19—.
2. Bids opened by the Director of Public Service ———, 19—.
3. Determination by the Director of Public Service that ——— is the lowest and best bidder ———, 19—.
4. Approval by the Board of Control ———, 19—.

This contract, made and entered into this ——— day of ———, in the year of one thousand nine hundred and ———, by and between the City of ———, of the first part, and A. B., Contractor—, of the second part:

WITNESSETH, that the said part— of the second part ha— agreed, and by these presents do agree with the said party of the first part, for the consideration herein before mentioned in the proposal, to furnish at ——— own proper cost and expense all necessary materials and labor of every description, and to construct and complete, in a substantial and workmanlike manner, and in strict accordance with the Specifications hereinafter set forth, and according to such instructions as may from time to time be furnished by the Engineer, all sidewalk improvements to be made in the season ending December 31, 19—, within sidewalk district No. ——— of said city, and which shall be placed in the hands of said party of the second part in pursuance to orders issued by the Director of Public Service of said city, at the rates mentioned in the proposal, and upon the terms and subject to the conditions of the Specifications hereinafter set forth. It is hereby agreed that everything heretofore agreed upon shall be strongly bound with this instrument, and form essential parts of this agreement.

SPECIFICATIONS

Definition of Engineer. 1. Whenever the word "Engineer" is used, it shall mean the Chief Engineer of the Department of Public Service of the City or his properly authorized agent.

Definition of Contractor. 2. Whenever the word "Contractor" is used, it shall be held to mean either any contractor or firm of contractors undertaking to construct any walk, under a permit from the Director of Public Service.

Work to Be Staked Out By the Engineer. 3. The work will be staked out by the Engineer or his assistant, and the Contractor will be required to carefully preserve all stakes until authorized to remove them by the Engineer or his assistant, and any expense in replacing said stakes which the Contractor or his subordinates may have failed to preserve shall be borne by the Contractor.

The Contractor to Give Twenty-four Hours Notice in Writing when the Services of the Engineer are Required. 4. The Contractor shall give twenty-four

(24) hours notice, in writing, when he shall require the services of the Engineer for laying out any portion of the work. He shall dig all stake holes necessary to give lines, levels and grades, etc.

In witness whereof, the said City of ——— has caused its name and corporate seal to be affixed by the Director of Public Service, and the said party of the second part set ——— hand— and seal— the day and year aforesaid.

.....

See references under § 3821.

§ 3833. Contract for sewer—Public corporation.

Contract between the City of ———, of the first part, and A. B., Contractor—, of the second part, for making the sewerage improvement in ———.

This agreement, made and entered into this ——— day of ———, in the year one thousand nine hundred and ———, by and between the City of ———, of the first part, and A. B., Contractor—, of the second part:

WITNESSETH, that the said part— of the second part ha— agreed, and by these presents do— agree, with the said party of the first part, for the consideration hereinbefore mentioned in the proposal, to furnish at ——— own proper cost and expense all the necessary materials and labor of every description, and to carry out and complete in a good, firm and substantial manner the sewerage improvement in ———, and in accordance with the drawings on file in the office of the Chief Engineer of the Department of Public Service, and also in accordance with the Specifications for this Contract hereinafter set forth, subject to such changes as may be made from time to time by the Director of Public Service of said City.

The provisions contained in the "Legal Notice," in "Information for and Instructions to Bidders," in the "Proposal," and in the "Specifications," as well as in the drawings for this work on file in the Chief Engineer's office, are hereby also embodied as a part of this agreement.

All work under this agreement shall be completed and submitted for final acceptance within ——— calendar days from the time designated in the written notice from the City to the Contractor to begin the work for the sewerage improvement herein contracted for.

The specifications under which the work embraced in this agreement shall be performed are as follows: [insert specifications].

In witness whereof, etc.

.....	
.....	
.....	

See references under § 3821.

§ 3834. Composition with creditors—General form.

We, the undersigned, being respectively creditors of A. B., of ———, in the amounts set opposite our respective names below, do hereby severally agree, in consideration of this composition and of the mutual covenants of said creditors herein contained, to accept in full satisfaction and discharge of our said debts, claims and demands a composition of ——— per cent., providing the same be paid on or before ———, 19—, (or, if payable in instalments, omit all following the words "providing the same, etc.," and insert instead, "payable as follows, ——— per cent. in cash on or before ———, 19—, ——— per cent. in ——— months, and ——— per cent. in ——— months, from the date hereof").

On payment of said composition as aforesaid, all our respective claims and demands against said ——— shall thereby be fully satisfied and discharged, and we severally agree to execute a full release of the same to said debtor, at his request and expense, and to satisfy of record all judgments against him and to surrender to him all promissory notes and other evidences of indebtedness held by us.

Provided, however, this agreement shall not be binding on any of the undersigned until the same has been duly executed by all the persons listed in the schedule of creditors hereto annexed, marked "Exhibit A" and made a part hereof.

—, —, 19—.

(Names of creditors)	(Amounts)
.....	\$.....
.....	\$.....

For consideration in compositions with creditors, see §§ 530 and 599.
For effect of composition, see §§ 599 and 3166.

§ 3835. Agreement permitting debtor to conduct business under supervision of creditor's committee.

This agreement made at —, this — day of —, 19—, by and between the creditors of C. D., whose names are subscribed hereto, parties of the first part, and C. D., of —, party of the second part, WITNESSES:

That whereas, said C. D. is indebted to said parties of the first part in the several amounts set opposite their respective signatures below, which debts said C. D. is now unable to pay in cash, and

Whereas, the stock in trade and other assets of said C. D. being sufficient to pay said debts, providing time be given to convert the same into money, the said parties of the first part have mutually agreed to permit the said C. D. to conduct his business under the supervision of a committee appointed by said parties of the first part, for a period of — years from the date hereof;

Now, therefore, said parties of the first part, in consideration of the agreements of one another and of said party of the second part herein, hereby give and grant unto the said C. D. full liberty and license to conduct his business of — and to convert into money all his stock in trade and other assets under the supervision of said committee as hereinafter specified, for said period of — from and after the date hereof, and said parties of the first part severally promise and agree that, during said time, they will not institute any suits, actions or legal proceedings of any nature against C. D., or otherwise molest him in his assets and property.

Said parties of the first part hereby appoint L. M. and N. R. their said committee and agents to represent said parties of the first part in the performance of this agreement, which said appointment is hereby consented to by said C. D.

In consideration of the promises and agreements of said parties of the first part herein contained, said party of the second part hereby promises and agrees:

1. to make and render unto said committee on or before —, 19—, a true, just and full inventory of all his assets and property, both real and personal, with a statement of all incumbrances and liens thereon, or affecting the same; and also a true and complete list of all creditors of said C. D. with the amount due each; said inventory and list of creditors to be verified by the affidavit of said C. D.;

2. to give his entire time and attention, during said period of ——— years, to the conduct and management of said business, and to the rendering profitable of the same; and that he will not engage in any other business during said time without the consent in writing of all members of said committee;

3. that he will diligently endeavor to collect all outstanding accounts, credits and choses in action, and that he will not release any debt due him except on full payment, without the consent of said committee;

4. that he will not encumber his property or assets, until all of said debts have been paid in full, and that he will not permit any creditor to obtain any security or preference;

5. that he will not make any sales or other disposition of his said stock in trade or other property or assets, excepting sales in the usual course of (retail) business, without the consent in writing of the members of the said committee;

6. that he will deposit each day in the ——— bank of ———, all moneys received from sales, and from the collection of accounts and choses in action; said deposit not to be drawn except for the purposes hereinafter mentioned, and by check signed by both C. D. and by one member of said committee;

7. to keep complete, just and accurate books of account, showing all moneys received and paid out, and of all other matters and transactions relating to his said business; to preserve all letters received, and to make and keep copies of all letters written and sent, pertaining to said business; all of which books, letters and other documents shall be open to the inspection of said committee;

8. that he will make and render to said committee, on the first day of each and every month during said period of ——— years, a general statement of the business transacted during the month next preceding, showing all receipts and payments, and all other matters and transactions relating to said business;

9. that he will not pledge his credit in any manner as surety, guarantor or endorser on any obligation whatsoever; and that he will not incur any new indebtedness, excepting in the usual course of said business, and with the consent of said committee as herein provided;

10. that he will pay to each and every of the parties of the first part the full amount of the several debts due to them in the manner herein provided.

It is mutually agreed by and between all the parties hereto, on the considerations aforesaid:

1. that said business shall be carried on under the control and supervision of said committee, who shall determine the number of clerks and other employes, the replenishment of stock, and the other expenses to be incurred in its operation. If, in the opinion of said committee, at any time during said period, it will be to the best interests of all the parties that said business be discontinued, or sold as a going concern, they are authorized to take such action thereto, as in their discretion is advisable;

2. that out of said moneys received from stock and assets sold, and choses in action collected, said committee shall pay the costs of preparing this agreement, the running expenses of said business, including the sum of \$—— per month to said C. D. for living expenses; and after such payments, to pay all small debts owing by said C. D. which do not exceed the sum of \$——; and, from time to time whenever there shall be a sufficient sum on hand to pay a dividend of ——— per cent. to the parties of the first part, said committee shall distribute and pay said sum among said parties of the first part, pro rata; provided, however, that specific liens heretofore secured by any creditor shall be paid and satisfied out of the property bound by such lien;

3. that said committee shall be entitled, as compensation for their services hereunder, to a sum equal to ——— per cent. of the moneys received and disbursed by them; that, if the debts due to said parties of the first part are paid in full in the manner herein provided, said compensation shall be paid from the

surplus moneys over and above the total amounts of said debts. If the assets and property of said C. D. shall prove insufficient to pay all of his said debts, then said compensation shall be deducted from the dividends due said parties of the first part as herein provided;

4. that after payment of all such debts, expenses, costs and compensation of said committee as herebefore provided, the surplus moneys, if any, shall be paid unto said C. D.;

5. that if all of said debts and expenses be paid in full before the expiration of said period of — years, then this agreement shall terminate, and said C. D. shall be restored to the full and complete control of his said business, assets and property;

6. that if, at the expiration of said period of — years, all of said debts be not paid in full, said committee, in their discretion, are authorized and empowered, without further authority from said parties of the first part, to extend said period for a further term or period of — months, by endorsement on this agreement;

7. that if, at the expiration of said period, or said extension thereof, the debts due to said parties of the first part shall not have been paid in full, said C. D. hereby agrees to convey and transfer to said committee by proper instruments of conveyance, all of his assets and property then remaining unsold and undisposed of, for the benefit of said parties of the first part; and upon said instruments of conveyance being duly executed to the satisfaction of said committee, said parties of the first part hereby severally agree to execute proper releases and discharges of their several claims, and to surrender all promissory notes and evidences of debt, at the request of said C. D.;

8. that this agreement shall not be binding on any of the parties hereto unless the same has been duly executed on or before —, 19—, by all creditors of said C. D., whose debts exceed the sum of \$—;

9. that if the said C. D. shall die before the expiration of said period, or the extension thereof, or if said C. D. shall fail to faithfully perform the agreements on his part to be performed hereunder to the satisfaction of said committee, then this agreement shall be void, and said parties of the first part may resort to legal remedies for the protection of their rights.

In witness whereof, etc.

See references under § 3834.

§ 3836. Agreement permitting creditor's committee to wind up business.

This contract made this — day of —, 19—, between the X. Y. Company, a corporation organized under the laws of the State of —, with its principal office and place of business in the City of —, County of — and State of —, hereinafter for convenience referred to as "Company," party of the first part; A. B. and other undersigned holders of the capital stock of said Company in the amount set opposite their respective signatures, hereinafter for convenience referred to as "Stockholders," parties of the second part; the undersigned creditors of said Company hereinafter for convenience referred to as "Creditors," parties of the third part; and L. M., P. R. and S. T., who have been selected by the creditors of said Company as trustees as herein provided, hereinafter for convenience referred to as "Committee," parties of the fourth part.

Whereas, said Company is largely indebted and its assets are such as that it is difficult for said Company to realize reasonable prices therefor unless an extension of time be granted in which to pay its existing indebtedness, and

unless further moneys be raised to aid in carrying on the business of said Company;

WITNESSETH, it is agreed by and between the parties hereto each agreeing with the other parties of the same part who sign this agreement, and with the parties of the other several parts, in consideration of the mutual promises, covenants and agreements of the parties hereto and other valuable considerations, the receipt whereof is hereby acknowledged, as follows:

1. Each of the Creditors hereby constitutes the Committee his, its or their attorney irrevocable, during the life of this agreement, for the collection of their respective claims against the Company, subject to the provisions hereinafter contained respecting the determination of the amount of any disputed claim, and agree with the Committee and with each other not to institute during the life of this agreement any legal proceedings whatsoever against the Company, unless thereunto first authorized or requested by the Committee so to do, except in the manner hereinafter provided in paragraph three (3), subdivision (c), in order to establish his, its or their claim. Each Creditor agrees to forthwith send to the Committee in care of L. M., at ———, an itemized statement of his, its or their claims, and to furnish the Committee at any time or from time to time with any information and proof respecting it which may be asked.

2. The Stockholders will deposit with the X. Y. Bank of Columbus, Ohio, hereinafter referred to as the Depositary, their certificates for a majority of the voting shares of the capital stock of the Company properly endorsed for transfer or accompanied by transfers or powers to transfer the same, sufficient to enable the Committee to transfer the title to said shares into their names as such Committee or into the name or names of such person or persons as they may designate, from time to time, and thereby confer upon the Committee as at any time constituted, or such transferees, all the powers of stockholders in the Company.

3. The Committee shall have power:

(a) To transfer to themselves as a Committee hereunder, or from time to time to any other person designated by them, the shares of the Company deposited as aforesaid, and to control, so far as the ownership of said shares confers such control, all the business of said corporation for the benefit of the parties hereto, subject, however, to the provisions hereof. The Committee is directed to transfer the shares of stock so received from said Stockholders to themselves or to such persons as they may direct.

(b) To cause to be borrowed from time to time, on the credit of the Company, or to request the Company to borrow from time to time whatever sums they shall deem in their discretion to be necessary, and to request the Company to pledge any assets of the Company as security, for such loans, or to agree in any other manner that any sums so borrowed may have a lien and claim upon the Company and its assets prior and superior to the claims of any creditors, becoming a party hereto.

(c) To adjust, compromise and settle, by themselves or by arbitration, or to disallow claims against the company, whether said claims are or are not the claims of a party hereto; provided, however, that if any claim of any party hereto is not allowed for the full amount claimed, such party shall have the right to institute legal proceedings against the Company for the determination of the amount of his claim notwithstanding anything herein contained to the contrary (but shall not have the right to place any attachment or lien on the property of the Company), and when the amount of his claim is so determined, it shall be recognized by the Committee as a valid claim hereunder, but shall not be enforced by any proceedings against the Company or its property except in conformity to this agreement.

(d) To elect themselves or any number of themselves or any person or persons directors or officers of the Company.

(e) To wind up the Company in case they deem it expedient, through bankruptcy, or by other legal proceedings, or to apply for or to assent to appointment of temporary or permanent receiver or receivers.

(f) To prepare and present to the parties hereto any plan for reorganization of the Company.

(g) To take any and all measures necessary to enable them immediately to control the actual management of the business and the property of the Company, to supervise and direct the conduct of its affairs, to carry on the business of the Company in such manner and for such length of time as it may deem fit, or to refrain from time to time from operating the business.

(h) To agree from time to time with any other holders of shares of stock in the Company, or with any committee or committees representing such shareholders respecting the continuation of the business of the Company, or its reorganization, or the liquidation of its assets.

(i) To employ and compensate counsel, auditors and all necessary assistants for services rendered in and about the matters mentioned in this agreement, including the preparation hereof, and to incur any and all expenses deemed reasonable by the Committee in the premises, including a reasonable compensation to the members of the Committee, all of which the Company agrees to pay, and the same shall be a prior charge upon the assets of the Company.

(j) The Committee may adopt their own rules of procedure and may act either by vote at a meeting or by consent in writing, and may determine from time to time what number of votes or consents of its members shall be deemed to be the act of the Committee.

(k) The Committee may exercise from time to time or refrain from exercising any of the foregoing powers and any other powers conferred or intended to be conferred upon them by this agreement as they, in their own uncontrolled discretion, may deem for the best interests of the Creditors, and the enumeration of the foregoing powers shall not be construed to exclude or prevent the exercise of any other powers necessary or reasonably convenient for the protection and advantage of the Creditors, or the management of the corporation.

4. That the Company will, when requested so to do by the Committee, issue negotiable promissory notes to any or all of said Creditors for their respective claims of whatever nature, such notes to bear interest at a rate of not less than — per cent. (—%) per annum and to run for such time and to be given in such form and upon such condition as the Committee may decide, except that such notes shall mature not later than —, 19—. All promissory notes so issued, and all other promissory notes and evidences of any claims of Creditors and held by any Creditor, which may be allowed by the Committee or otherwise proved to be valid claims against the Company, which the Committee may require, shall be deposited with the Committee, except when any Creditor may need the same to establish its claim in court or otherwise, as they may direct, and proper receipts shall be given for the same.

5. The Stockholders and the Company agree that the present officers and directors of the Company, any or all of them, will resign their respective positions whenever requested so to do by the Committee after this agreement becomes effective; and that the Committee may require the discharge or resignation of any employe or employes and may appoint others in their stead.

6. The Committee may at any time cause any debts against the Company to be compromised, adjusted or paid in part or in full, as in its judgment it may seem best. All other claims approved as aforesaid shall be paid pro rata. Any moneys of the Company which the Committee shall from time to time

deem proper to be withdrawn from the active operations of the business of the Company shall be applied in the following order:

(a) To the payment of the compensation and expenses of the Committee, including a reasonable compensation to the Depositary.

(b) To the repayment of any moneys borrowed by the Committee.

(c) To all the Creditors of the Company at the date of this agreement, whether signers of this agreement or not until their respective claims are paid in full with interest as aforesaid.

No payment shall be made upon any of the foregoing classes until all claims under the prior class or classes have been paid; provided, however, that payments may be made under class (c) whenever the holders of claims (b) shall assent thereto. The Committee may require the presentation to them, or to any bank or banks as agents for them, of any notes upon which payments are to be made in order that such payments may be endorsed thereon, and may require receipts in such form as they deem proper for payments upon any other claim.

7. Any plan formulated by the Committee for reorganization of the Company or for its operation otherwise than under the terms hereof which shall contemplate that the Creditors will accept anything for their respective claims other than cash payment shall be submitted to the Creditors for their acceptance or rejection, by mailing a copy of said plan and notice to the Creditors, directed to them at the address given when signing this agreement or furnished to the Chairman of the Committee, and they shall have thirty (30) days, after the mailing of such plan and notice, for the consideration thereof, but the plan as submitted shall be deemed to be conclusively adopted by such of the Creditors as do not notify the Committee in writing of their rejection of said plan within the aforesaid thirty (30) days. Those of the Creditors who reject said plan may withdraw from this agreement upon payment, or securing to the Committee the payment of their proper pro rata proportion of the expenses and of any other obligations theretofore incurred by the Committee or by the Company hereunder and then remaining unpaid.

8. The Committee shall always consist of five members, and the Committee may act by a majority of their members, or in such manner as they may have provided, in accordance with paragraph three (3), subdivision "j," of this agreement. Any member of the Committee as at any time constituted may resign by tendering his written resignation to the then Chairman of the Committee. Whenever a member of the Committee shall resign or die, another person shall be appointed in his stead by the remaining members of the Committee. Whenever the Committee is referred to in this agreement, it comprehends the Committee as it is then constituted, in accordance with the foregoing provisions, at the time of any action taken by them or by their authority.

9. No member of the Committee shall in any way be held personally responsible for any act, deed or omission of the Committee of which he is a member, or of himself as a member of said Committee, or of any agent or representative of the Committee, or for any moneys or property coming into the hands of said Committee, or money paid out by said Committee, or through or by its order or that of its Chairman, or for any of the acts or omissions of any agent, officer or employe of said Company, except for wilful malfeasance on his part.

10. Nothing in this agreement contained shall prevent any Creditor of the Company or any member of the Committee or any firm or corporation in which any of them are interested as officers or otherwise from making loans to the Company, or from purchasing in liquidation, reorganization or otherwise, or becoming members of a syndicate which may purchase, any or all of the

assets of the Company, or from taking up, or becoming members of a syndicate which may take up, any or all of the indebtedness of the Company.

11. This agreement shall become operative whenever said Committee shall determine that in its judgment a sufficient number of Creditors, having a sufficient amount of claims to make the same effective have become parties hereto, but in no event shall this agreement become operative until signed by Creditors having not less than seventy-five per cent. (75%) in amount of the face value of all claims now outstanding against the Company, and when signed by the Company and by the Stockholders holding seventy-five per cent. (75%) of the issued and outstanding capital stock of said Company. Any creditor may become a party to this agreement with the consent of the Committee after it shall have become effective by signing a copy hereof and depositing the same with the Chairman of the Committee, together with a statement of his claim. It shall continue in force until all claims have been paid in full with interest, as aforesaid, or the property of the Company shall have been liquidated and distributed hereunder, or until some plan of reorganization shall have been accepted by the Creditors as hereinbefore provided; provided, however, that whenever in the judgment of the Committee this agreement can not be effectively carried out, the Committee shall have a right to declare this agreement terminated, and provided further that Creditors holding seventy-five per cent. (75%) of the amount of claims at any time remaining parties hereto may declare this agreement at an end; in either of which events, whether this agreement is terminated by the Committee as aforesaid or by the Creditors as aforesaid, the Committee, first having received payment or security for the payment of their expenses and all outstanding obligations of the corporation incurred by it or them under the terms of this agreement, shall do all the acts necessary to revest title to all claims and property in those entitled thereto.

12. If for any reason either the Stockholders who are owners of seventy-five per cent. (75%) of the issued and outstanding capital stock of said Company, or the Company shall neglect or refuse to become a party to this agreement, or if for any other reason the terms of this agreement can not be carried out in their entirety, or so far as they can not be carried out, then and in any such case the Creditors hereby authorize and empower the Committee to negotiate with the Company, the Stockholders and any other persons having interests in the property and assets of the said Company for any settlement of their claims and to present to the Creditors any plan for such settlement as the Committee may deem advisable; and in any such event as aforesaid, the Creditors further hereby authorize and empower the Committee to institute bankruptcy or other legal proceedings as they may be advised are necessary or advantageous in the circumstances. Such legal proceedings may be brought in the State or Federal Court as said Committee may determine.

13. Wherever in this agreement it is stated that the Company shall do any act when directed so to do by the Committee, or whenever the Committee is authorized to perform any duty which should be performed through the legal action of the corporation, it is understood and intended that all acts which are required to be done by the Company shall be done by the Board of Directors, in accordance with the judgment of said Board and in accordance with the laws governing the actions of corporations under the laws of the State of Ohio, and in accordance with the charter and the by-laws of the corporation.

14. The Committee is not to be under any obligations, express or implied, to any creditor who shall not become a party to this agreement and file his claim as provided herein, nor shall any such creditor have any right or claim whatsoever under or by virtue of this agreement.

15. The Committee is hereby authorized to construe this agreement, and its construction of the same made in good faith shall be final and binding.

16. Neither this agreement nor any provision hereof shall be construed as a recognition of the validity or amount of the claim against the Company of any person, whether or not he shall be a party to this agreement.

17. A correct copy of this agreement shall be deposited with each member of the Committee and with said the X. Y. Bank for the inspection of such person or persons as may have a right to examine and inspect the same.

18. This agreement may be signed in multiple with the same force and effect as if all the signatures thereon were upon one paper and made on the same date. It shall be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

Witness the signatures of the parties hereto, as of the date first above written:

The X. Y. Company,
By A. B., Its President, Party of the First Part.

Attest: C. D., As Secretary.

E. F., Owner of — Shares —, G. H., Owner of — Shares —,
etc., Parties of the Second Part.

A. B., C. D., etc., Parties of the Third Part.

L. M., P. R., S. T., Parties of the Fourth Part.

See references under § 3834.

§ 3837. Compromise of disputed claim arising on contract.

This contract entered into at —, on the — day of —, 19—, by and between A. B., of the City of —, State of —, party of the first part, and C. D., of the City of —, State of —, party of the second part,
WITNESSES:

Whereas, on or about the — day of —, 19—, said A. B. and said C. D. entered into a contract by the terms of which [insert substance of contract]; and whereas, in the performance of said contract various controversies, disputes and differences have arisen between said A. B. and said C. D.; and whereas, said A. B. and C. D. desire to compromise and adjust such controversies, disputes and differences without resorting to litigation; now the said A. B. and C. D. mutually agree in full settlement, compromise and discharge of said controversies, disputes and differences, that said A. B. shall pay to said C. D. in consideration of the covenants of said C. D. hereinafter contained and of the release by said C. D. of all claims against the said A. B. growing out of said contract, the sum of — dollars, the receipt whereof is hereby acknowledged by the said C. D.; and furthermore, said A. B. does hereby release and forever discharge the said C. D., his heirs, executors and administrators from all claims, demands and rights of action growing out of said contract; and in consideration of said payment and of said covenants on the part of said A. B., the said C. D. does hereby release and forever discharge the said A. B., his heirs, executors and administrators from all claims, demands and rights of action growing out of said contract.

In witness whereof, etc.

For the validity of compromises, see §§ 612 et seq., 723 and 924.

For releases, see §§ 2447 et seq.

For accord and satisfaction, see §§ 2501 et seq.

For specific performance, see § 3345.

§ 3838. Compromise of claim for unliquidated damages in tort.

Know all men by these presents: That I, A. B., of —, in consideration of the sum of — dollars (\$—), received to my full satisfaction of

the C. D. Street Railway Company, do for myself, my executors, administrators and assigns, hereby release and forever discharge said the C. D. Railway Company, together with its successors and assigns, from all debts, claims, demands, damages, actions, and causes of action whatsoever, and including such as have arisen by reason of, or in any manner grow out of ——— [state foundation of claim, as "the injuries received by me on ———, 19—, at ———, while crossing ——— Street, by being struck by a street car operated by employees of said the C. D. Street Railway Company"].

In witness whereof, etc.

See references under § 3837.

§ 3839. Compromise and mutual release of all claims and demands.

This contract, entered into at ———, ———, this ——— day of ———, 19—, by and between A. B. and C. D., WITNESSES:

That, whereas, various business transactions and dealings have taken place between said A. B. and C. D., and numerous controversies and differences have arisen between said parties with reference thereto; and whereas, said parties hereto have agreed to compromise and adjust all of said controversies and differences by the payment of the sum of ——— dollars (\$——) by the said A. B. to the said C. D.;

Now, therefore, in consideration of said agreement and of the payment of said sum of ——— dollars (\$——), the receipt of which is hereby acknowledged by the said C. D., each of said parties hereto does hereby release and forever discharge the other, his heirs, executors and administrators, from all debts, claims, demands, damages, actions and causes of action whatsoever from the beginning of the world to the date of these presents.

In witness whereof, etc.

See references under § 3837.

§ 3840. Contract to subscribe for stock in corporation to be formed.

We, the undersigned, in consideration of the mutual promises of one another hereinafter contained, do severally subscribe for and agree to take and pay for the number of shares of the capital stock of the X. Y. Company, which are hereinafter set opposite our respective names, as soon as said corporation shall be incorporated in due form in accordance with the laws of the State of ———; and we agree to pay therefor the sum of ——— dollars per share, the same being the par value of said stock; and we agree respectively to pay said amounts within ——— days after said corporation has been incorporated as aforesaid, said payments to be made to [insert name of party who is to receive payments] at [insert place of payment].

Names of subscribers	Number of shares of stock
A. B.,	_____.
C. D.,	_____.
etc.	_____.

Under some forms the subscription is made payable to some designated official of the corporation. This form may be used in a jurisdiction in which a corporation may come into existence before a certain portion of its authorized capital stock is subscribed and paid in.

In jurisdictions in which the corporation can not come into existence until a certain portion of its authorized capital stock is subscribed and paid in, the subscription contract ought to indicate the person or persons to whom payments are to be made; although this may not be necessary if the statute has designated certain persons, such as the incorporators to whom such pay-

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ments are to be made. Under such statutes, payment must come before, not after, the creation of the corporation.

See references under § 3764.

For form of assignment of stock, see §§ 3791 and 3792.

For bond to protect corporation against lost certificate, see § 3816.

For contracts between directors and corporation or stockholders, see § 410 et seq.

For contracts unfair to minority stockholders, see § 885.

For contracts for control, etc., of corporations, see §§ 883 et seq.

For dissolution as discharge of contracts, see §§ 2687 et seq., 2939.

For specific performance of contract to sell corporate stock, see §§ 3333 et seq.

§ 3840-1. Contract to subscribe for stock in co-operative realty corporation.

[The contract of subscription is usually preceded by a prospectus which sets forth the advantages of co-operative ownership; the plans and specifications of the building; the cost of various apartments, etc.; an estimate of the probable income from the building and of probable expenditures; the scheme of organization and financing, and the substance of the contract between the realty corporation and the contractor.]

SUBSCRIPTION AGREEMENT

The undersigned, having read and approved the foregoing Plan of Organization covering the construction of ——— [insert name of building], for valuable consideration received and in consideration of the mutual agreements herein contained, each for himself agrees to and with the subscribers hereto and ——— [insert name of corporation] to purchase ——— shares of the capital stock at ——— dollars (\$——) per share of ——— [insert name of corporation], when incorporated (full paid and non-assessable) and to pay to ——— [insert name of corporation], the full par value thereof in cash amounting to ——— dollars (\$——) when called for by said ——— [insert name of corporation], in the following instalments in accordance with the terms of this subscription agreement: ——— [insert stage of performance at which each instalment is to be paid; and amount then payable].

Times of payment of each instalment are agreed to be of the essence of this agreement.

Receipts will be delivered for the amounts paid. Stock shall be delivered on full payment of subscription and of the cost of any changes ordered by the Subscriber.

The mortgage indebtedness on said premises on completion of the building shall not exceed ——— dollars (\$——) (or such amount as shall be fixed in accordance with the provisions of the annexed plan and the amount of the total subscriptions hereto).

The said mortgage indebtedness shall constitute the only indebtedness against the Owner at the time the building is delivered as completed and the mortgage indebtedness and capital stock of the Owner shall not exceed ——— dollars (\$——).

For the protection of the enterprise, it is expressly agreed that the Contractor reserved the right, at any time before the building is delivered to the Owner, to cancel this subscription agreement, by returning to the Subscriber all amounts theretofore paid by him thereupon, with legal interest; provided, however, that this right shall not be exercised for the purpose of securing a high price for the Subscriber's shares.

Any notice or call given hereunder shall be duly and properly given as of the date of mailing if sent by mail to the Subscriber at the Subscriber's address as given hereunder. This subscription shall become effective when approved by ——— [insert name of promoter, etc.].

This agreement may consist of several counterparts, to be executed in triplicate by each of the Subscribers, which, when taken together, shall constitute the subscription agreement of the parties hereto. Any and all payments made hereunder shall be deposited by _____ [insert name of promoter, etc.], in a separate account for the purpose of carrying out the plan of this agreement.

This agreement to become effective when subscription totaling _____ dollars (\$_____) has been accepted. _____.

Name

Address

Approved _____ [insert name and address of promoter, etc.].

By _____.

§ 3841. Voting trust agreement—Deposit blank.

The X. Y. Trust Company,

_____, _____.

Depository for A. B., C. D. and E. F., trustees for stockholders of the G. H. Company.

The undersigned, holder of the certificates of the capital stock of the G. H. Company listed below, hereby deposits the same with said trustees, duly assigned to said trustees, to be exchanged for certificates of deposit issued by said the X. Y. Trust Company, on behalf of said trustees, for the purposes and subject to the terms and conditions endorsed hereon, and also endorsed on said certificates of deposit.

Number of Stock Certificate	Date of Issue	Name of person to whom issued

(Signature of depositor) _____.

(Address) _____.

_____, _____, 19____.

See references under § 3840.

For the validity of voting trusts, see § 887.

§ 3842. Voting trust agreement—Certificate of deposit.

No. _____.

_____, _____, 19____.

The X. Y. Trust Company of _____ hereby certifies that it has received from L. M. certificate number _____ for _____ shares of _____ dollars each of the common stock of the G. H. Company, which certificate is deposited under and subject to the terms and conditions endorsed hereon, to which the holder hereof assents and agrees to be bound by receiving this certificate.

The interest represented by this certificate is transferable only on the books of said trustees in person or by attorney and the surrender of this certificate, under rules established by the trustees hereunder.

The X. Y. Trust Company,

By _____, Secretary.

For A. B.,

C. D.,

E. F., Trustees.

See references under § 3840.

§ 3843. Voting trust agreement—Terms and conditions of deposit blank and certificate of deposit.

1. This deposit is made for the purpose of enabling widely separated stockholders of said the A. B. Company actively and effectively to participate in the control and management of its affairs for the benefit of both said corporation and said stockholders. The shares deposited under this agreement shall remain on deposit with said trustees for a period of ——— years, beginning with the ——— day of ———, 19—.

2. By the deposit of the within mentioned shares with the X. Y. Trust Company of ———, hereinafter termed the depository, the within named trustees are vested with the same powers, in all respects as to voting or otherwise, either in person or by proxy, as if the trustees were the absolute owners thereof. The stockholders who have deposited said shares under this contract agree that they will not attempt to vote said shares either in person or by proxy, and that they will not interfere with the voting of said shares by said trustees.

3. The genuineness of the certificates of stock deposited, in respect to which this certificate of deposit is issued, is not guaranteed, and the trustees reserve the right to call in this certificate upon returning to the holder thereof the certificate so deposited by him in case the genuineness of such certificate is disputed or doubtful.

4. All proceedings of the trustees shall in case of difference be decided by a majority of the votes of the trustees present at a meeting.

5. In case of the death or resignation of any of the trustees, or in case of a vacancy through any cause, the remaining trustees are authorized to fill such vacancy or vacancies, and the person or persons so selected shall have the same powers as if he or they had been originally a trustee hereunder. Any trustee absent or incapacitated through illness may, with the consent of the other trustees, appoint a proxy or substitute who shall represent him and perform his duties hereunder.

6. Said trustees shall not, without the consent of a majority of the certificate holders at a meeting called for that purpose, agree or vote at any stockholders meeting in favor of increasing or reducing the capital stock of said the A. B. Company, or in favor of issuing preferred stock, or of executing any mortgage on the property of said corporation except as a renewal or refunding of the loans now secured by mortgage.

7. Meetings of the certificate of deposit holders may be convened by the trustees on ten days' notice to each certificate holder mailed to his last known address. The place and time of meetings shall be fixed by the trustees and mentioned in such notice.

8. Each trustee is responsible only for the bona fide exercise of his judgment on the matters and things done by said trustee. No trustee shall be liable for the act or omission of any agent hereunder, nor by reason of any error of law or of any matter or thing done or omitted under this agreement, except for his own malfeasance.

9. Any and all dividends declared and paid upon the shares deposited hereunder shall be paid to the persons appearing by the transfer books of said trustees to be the owners thereof.

10. A charge of ——— per share is to be paid to the depository on deposit of the within shares for the purpose of defraying the expenses of such deposit and of said trustees.

See references under § 3840.

§ 3844. Contract for pooling stock.

Know all men by these presents: That the undersigned, the owners of the number of shares of the capital stock of the A. B. Company, a corporation organized and existing under the laws of ———, set opposite their names, respectively, hereby agree, one with the other, to place and deposit their certificates evidencing the number of shares of said stock set opposite their respective names, with ——— of ———, to be kept, held and possessed by C. D. for and during a period of ——— years from and after ———, 19—, upon the following terms and subject to the following restrictions, to-wit:

1. All certificates of said stock shall be endorsed in blank by the owners thereof prior to depositing the same as aforesaid, and the stock represented by the certificates so deposited shall, upon deposit as aforesaid, be pooled, and shall not be sold or in any manner disposed of, except as herein provided.

2. Each of the parties hereto does hereby promise and agree, one with the other, that if, during said period of ——— years, he desires to sell or dispose of his shares of stock so deposited and pooled, he will give notice in writing of such desire to all of the other parties hereto, whereupon all of said other parties hereto shall jointly have the option and right to purchase the same within ——— days after receipt of such notice for the price and upon the terms following, to wit: The amount to be paid for such shares under said option shall be the "book value" thereof at the time said notice is given, to wit: That proportionate value of the net assets of said corporation which the number of shares proposed to be sold bears to the entire issued capital stock of said corporation.

In determining the value of said net assets of the corporation, all patents or copyrights owned or held by the corporation and the good will of its business shall be excluded and not taken into consideration; all materials and stock, finished semi-finished and raw, shall be valued at the actual cost thereof with suitable allowance for depreciation; and the plant, machinery, equipment, fixtures and furnishings, and all accounts, claims, notes and choses in action receivable shall be valued at their true value in money. From the total of said property, valued as aforesaid, shall be deducted the total amount of the indebtedness of the corporation.

The terms of sale under said option shall be as follows: [insert terms].

3. It is mutually agreed that if all of the parties hereto, to whom any notice of a desire to sell is given as hereinbefore provided, shall be unwilling to join in a purchase under said option, that said option may be exercised by such of the parties as may desire so to do, who shall make such purchase under such option jointly; but each and every party hereto shall be entitled to participate in such purchase if he desire so to do.

4. Any and all stock purchased under the provisions of this agreement shall be owned jointly by the parties participating in its purchase; the same shall not be sold or disposed of except with the written consent of the parties owning eighty per cent. thereof, and all dividends on the same shall be paid to ———, who shall distribute the same among the parties participating in its purchase.

6. This pool and agreement may be terminated at any time upon the unanimous consent of the parties hereto.

In witness whereof, etc.

For such contract as consideration, see § 553.

For effect of, see § 1032.

See references under § 3840.

§ 3845. Consolidation agreement.

This contract entered into this _____ day of _____, 19—, by and between the A. B. Company, a corporation duly incorporated under the laws of the State of _____, and the C. D. Company, a corporation duly incorporated under the laws of the State of _____, WITNESSES:

Whereas, said corporations desire to merge and consolidate into one corporation; and whereas, authority for such consolidation and merger has heretofore been given by the State of _____, by an act [insert reference if desired to statute under which merger is conducted]; and whereas, the public utilities commission of the State of _____ has heretofore given its assent to such merger by its order [reference to order by date, volume and the like may be inserted]; and whereas, the respective boards of directors of the A. B. Company and C. D. Company at meetings whereof due notice was given, have adopted resolutions unanimously providing for the consolidation and merger of said corporations; and whereas, said resolutions have been duly entered upon the records of the proceedings of the respective boards of directors; and whereas, said resolutions are subject to the ratification and approval of the stockholders of each of said corporations, as required by law;

Now, therefore, said corporations, acting herein by authority of said resolutions of their said respective boards of directors, and subject to the said ratification of their said respective stockholders, as required by law, in consideration of their mutual agreements, covenants, provisions and grants herein contained and of the benefits to accrue to the parties hereto, do hereby agree to consolidate their business, property, franchises and rights, so as to become one corporation, and, by these presents, do merge and consolidate their capital stock, franchises and property into one corporation to be known by the name of the E. F., etc. _____ Company, upon the following terms and conditions, to wit:

First. All the rights, franchises, privileges, property and appurtenances of every kind and description, credits, choses in action, debts, claims and demands of each of the parties hereto shall vest in the consolidated company.

Second. The consolidated company shall assume and be bound by all the liabilities and obligations of each of the corporations, parties hereto.

Third. The capital stock of the consolidated company shall be \$_____, divided into _____ shares of \$_____ each.

Fourth. The directors of the consolidated company shall be _____ in number, and the officers shall be a president, vice-president, secretary and treasurer.

The names and residences of the first directors of said consolidated company are as follows:

Names	Residences
.....
.....
.....

The names and residences of the first officers are as follows:

Names	Residences
President.....
Vice-President.....
Secretary.....
Treasurer.....

Fifth. The manner of converting the capital stock of each of the constituent companies parties hereto shall be as follows:

(a) For each share of the capital stock of the A. B., etc., — Company surrendered to the consolidated company shall be issued to the holder thereof — shares of the capital stock of the consolidated company.

(b) For each share of the capital stock of the C. D., etc., — Company surrendered to the consolidated company shall be issued to the holder thereof — shares of the capital stock of the consolidated company.

Sixth. Each of the constituent companies, parties hereto, for itself and not for the other, in consideration of the premises, does hereby grant, convey, assign, set over and vest in the said consolidated company for the purpose of such consolidation, all of the property, rights, franchises, privileges and powers by it now held or in or to which it has any right, title, interest or claim in law or equity; and each of said constituent companies hereby agrees to execute and deliver all instruments of conveyance and assignment necessary to vest in said consolidated company the legal title to all of said property, rights, franchises and privileges.

In witness whereof, etc.

Instead of providing for the number of shares in the new company to be exchanged for each share in the constituent companies, provision may be made for a valuation of the properties of each of the constituent companies, and the pro rata distribution of part or all of the stock of the new company upon the basis of such valuation.

See references under § 3840.

§ 3846. Proxy for voting corporate stock.

Know all men by these presents: That I, —, do hereby constitute and appoint — my attorney and substitute, for me and in my name, place and stead, to vote as my proxy at any annual or special meeting of the stockholders of the X. Y. Company for the election of directors, and upon such other questions as may come before any such meeting, according to the number of votes I should be entitled to cast if then personally present.

In witness whereof, I have hereunto set my hand this — day of —, A. D. 19—.

Sealed and delivered in presence of —.

See references under § 3840.

§ 3847. Contract for sale of shares of stock of corporation.

This contract entered into at —, —, this — day of —, 19—, by and between A. B., party of the first part, and C. D., party of the second part, WITNESSES:

That said party of the first part hereby promises and agrees to sell to said party of the second part on or before —, 19—, — shares of the capital stock of the X. Y. Company, a corporation organized under laws of —, for the price of \$— per share, and to deliver certificates evidencing said shares, with all assignments and transfers thereon necessary to convey the legal title thereto, to said party of the second part.

In consideration whereof said party of the second part hereby promises and agrees to buy said shares and to pay said party of the first part therefor the sum of \$— per share for said — shares upon the delivery of said certificates with all assignments and transfers thereon as above specified.

In witness whereof, etc.

See references under § 3840.

For assignment of stock in corporation, see §§ 3791 and 3792.

§ 3848. Contract to make a will.

This contract entered into this — day of —, by and between A. B., of the City of —, State of —, party of the first part, and C. D., of the City of —, State of —, party of the second part, WITNESSES:

That whereas the said C. D. in consideration of the covenants of said A. B. hereinafter contained — [insert consideration furnished by C. D., whether work and labor to be furnished, support, forbearance to enforce debts and the like];

Now the said A. B. does hereby covenant that he will execute his last will and testament in due and lawful form, and that he will thereby devise and bequeath to the said C. D., his heirs, executors and administrators forever, the following described property — [insert description of property]; provided, however, and this contract is upon this condition, that in case the said C. D. shall fail to — [insert covenants, the breach of which is to discharge the contract] this contract shall be void and of no effect; but in such case the said A. B. covenants to — [insert provision for making compensation to C. D. for the value of the performance furnished by him, unless it is intended to provide for a forfeiture in case of breach].

In witness whereof, etc.

For the validity of such contract, see § 865.

For the necessity of written evidence, see § 1281.

For breach, see § 2935.

For the measure of damages, see § 3235.

For specific performances, see § 3326.

For limitations, see §§ 3433, 3435.

For specific performance, see § 3326.

See references under § 3849.

§ 3849. Contract for mutual conveyances of decedent's estate by heirs, devisees, etc.

This contract entered into this — day of —, 19—, by and between A. B., of the City of —, State of —, party of the first part, and C. D., of the City of —, State of —, party of the second part, WITNESSES:

That whereas, on or about the — day of —, X. Y., of the City of —, State of —, died, leaving the said A. B. and C. D. his sole heirs; and whereas, said X. Y. left a last will and testament by the terms of which he devised the greater part of his estate to the said A. B.; and whereas, questions have arisen concerning the capacity of the testator and the validity of the execution of said will; and whereas, the parties are anxious to avoid litigation;

Now, therefore, the said A. B. and the said C. D. agree that, within — days from the date of this contract the said A. B. shall convey to the said C. D., his heirs and assigns forever, by a good and sufficient warranty deed, the following described property — [insert description of property to be conveyed]; and that in consideration thereof and in case such conveyance is made as aforesaid, the said C. D. hereby covenants that he will not resist the probate of said will and that he will not appeal from said probate, nor will he institute any proceedings to cause said will to be set aside.

The costs of the administration of the estate of X. Y., and the inheritance taxes due therefrom, shall be paid as follows: — [insert provision showing the proportion of each to be paid by each of the parties to the contract].

In witness whereof, etc.

The possibility of the failure of title of specific property which is to be transferred in compromise of a dispute as to the rights of the heirs and devisees, should be taken into consideration; and unless the grantee intends

to assume all risk as to such failure of title, provision should be made either for the execution of a warranty deed, in case the risk is to be assumed by the grantor, or for an adjustment of their respective rights in the residue of the estate in case such title fails.

For the validity of a contract not to contest a will, see § 949.

For the validity of a contract to set a will aside, see § 950.

See references under § 3848.

§ 3850. Contract for easement—Drainage, etc.

This contract entered into this — day of —, 19—, at —, by and between A. B., of —, party of the first part, and C. D., of —, party of the second part, WITNESSES:

That whereas said A. B. is the owner of certain realty described as follows: — [insert description of realty]; and whereas C. D. wishes to — [insert nature of use which C. D. wishes to make of such realty, such as: to construct a drain across such realty for the purpose of draining his own land, etc.];

Now, therefore, in consideration of — dollars, the receipt whereof is hereby acknowledged, the said A. B. for himself, his heirs, assigns, devisees and grantees, does hereby grant to said C. D., his heirs, assigns, devisees and grantees, the right to — [insert statement of use to be made] across the following portion of the aforesaid realty — [insert description].

Said improvement shall be constructed as follows: — [insert detailed description of the manner in which the improvement is to be constructed, including where necessary provision for constructing and maintaining fences, gates, etc.].

Said A. B. does furthermore covenant for himself, his heirs, assigns, devisees and grantees, that the said C. D., his heirs, assigns, devisees and grantees may enter upon the land of the aforesaid A. B. for the purpose of maintaining and preparing said — [insert name of improvement, etc.], but in such case notice shall be given by said C. D., his heirs, assigns, devisees and grantees, at least — days before said entry is to be made.

Said C. D. agrees to do no further damage to the property of the said A. B. than is necessary for such maintenance and repair; and said C. D. agrees to pay to said A. B. all the damage caused by said entry.

In witness whereof, etc.

The foregoing instrument should ordinarily be executed in the form required in that jurisdiction for a deed.

For the necessity of written evidence, see § 1271.

§ 3851. Party wall contract.

This contract entered into at —, —, this — day of —, 19—, by and between A. B., party of the first part, and C. D., party of the second part, WITNESSES:

That whereas, the parties hereto are the respective owners in fee simple of adjoining parcels or lots of land described as follows: said parcel or lot belonging to said party of the first part is situated in the City of —, County of — and State of —, and described as follows: — [description of property].

Said parcel or lot belonging to said party of the second part is situated in the City of —, etc., —, and is described as follows: — [description of property].

And whereas, said party of the first part desires to build a party wall on the dividing line between said parcels of land;

Now, therefore, said party of the first part, in consideration of the promises and agreements of said party of the second part hereinafter contained, hereby

promises and agrees to build, at his own expense in a substantial and workmanlike manner, a party wall — inches thick, the same to be placed on said dividing line between said parcels of land, one half on the land of each party hereto.

Said party of the second part hereby agrees that said party of the first part may build said party wall, and further that if at any time said party of the second part, his heirs or assigns, shall use said party wall, or any part thereof, he will pay one-half of the value at that time of said wall, or of such part thereof, including its foundations, as he may use.

It is mutually agreed by and between the parties hereto that, after said wall has been built, either party may extend the same in thickness or height; but no extension in thickness shall be placed on the land of the other without the written consent of such other party.

It is further mutually agreed by and between the parties hereto that said wall shall be allowed to remain for a period of — years; and shall not be sooner removed except by mutual consent of both parties hereto, or their heirs or assigns; but either party may repair or rebuild the same using due care in so doing to support the buildings, land and property of the other.

This agreement shall inure to the benefit of the heirs and assigns of each of the parties hereto, and the covenants herein contained shall run with the land.

In testimony whereof, etc.

For the necessity of written evidence, see § 1272.

§ 3852. Partition fence contract.

This contract made and entered into at —, —, this — day of —, 19—, by and between A. B. and C. D., WITNESSES:

That whereas, the parties hereto are the owners, respectively, of adjoining parcels of land situated in — Township, — County, —, respectively described as follows: — [separate description of properties].

And whereas, it is necessary that the partition fence between said lands be rebuilt;

Now, therefore, it is mutually agreed by and between the parties hereto that the fence now between said lands shall be entirely removed and a new fence built of — [describe materials, height of fence, distance between posts, etc.], which, when built, shall belong to the parties in equal shares.

The said A. B. promises and agrees to furnish all staples and wire (or other material) and posts for said new fence, and to deliver the same on or before —, 19—.

The said C. D. promises and agrees to perform all the labor in removing the old fence, cleaning away and removing the debris thereof; to perform all the labor in building said new fence in a good and workmanlike manner, and to complete the same on or before —, 19—.

In testimony whereof, etc.

§ 3853. Contract of employment—General form.

This contract entered into this — day of —, A. D. 19—, between A. B., of the City of —, State of —, and C. D., of the City of —, State of —, WITNESSES:

That in consideration of the covenants of said A. B. hereinafter contained, the said C. D. hereby covenants and agrees to work for the term of — months, commencing on the — day of —, 19—, at the business of — [insert business] and at — (or, at such point within the State of

— as the said A. B. may designate). Said C. D. agrees to work — hours per day, Sunday excepted. In consideration of the foregoing covenants, said A. B. agrees to pay to said C. D. the sum of — dollars per month, to be paid on the — day of each month, beginning with — [insert date of first payment].

In witness whereof, etc.

For the validity of provisions relieving an employer from liability for negligence towards his employes, see §§ 762 et seq.
 For the nature and effect of contracts of employment, see §§ 1441 et seq.
 For liability for voluntary services, see §§ 1516 et seq.
 For liability of third persons for interfering with contracts of employment, see §§ 2424 et seq.
 For performance, see §§ 2786 and 2792.
 For breach by renunciation, see § 2887.
 For breach by non-performance, see § 2930.
 For precedent covenants, see § 2957.
 For entire or severable character as affecting merger in judgment, see § 3007.
 For instalment contracts, see §§ 3020 and 3021.
 For acceptance of defective performance, see § 3048.
 For damages, see §§ 3214, 3217.
 For injunction, see §§ 3392 et seq.
 For the validity of a contract for union labor exclusively, see § 821.

§ 3854. Contract of employment—Architect—Fee plus cost system—Issued by the American Institute of Architects.¹

This agreement made the — day of —, in the year Nineteen Hundred and —, by and between —, hereinafter called the Owner, and —, hereinafter called the Architect,

WITNESSETH, that whereas the Owner intends to erect — [add here brief description of scope and manner of execution of work];

Now, therefore, the Owner and the Architect, for the considerations hereinafter named, agree as follows:

The Architect agrees to perform for the above-named work, professional services as stated in Article 1 of the "Conditions of Agreement between Owner and Architect" hereinafter set forth.

The Owner agrees to pay the Architect the sum of — dollars (\$—) as his fee, of which — dollars (\$—) is to be paid in — equal instalments monthly, beginning —, the balance to be paid on issuance of final certificate; and to reimburse the Architect monthly all costs incurred by him in the performance of his duties hereunder as more fully set forth in the said "Conditions."

The parties hereto further agree to the following:

CONDITIONS OF AGREEMENT BETWEEN OWNER AND ARCHITECT

Article 1. The Architect's Services.—The Architect's professional services consist of the necessary conferences, the preparation of preliminary studies, working drawings, specifications, large-scale and full-size detail drawings; the drafting of forms of proposals and contracts; the issuance of certificates of payment; the keeping of accounts, the general administration of the business and supervision of the work.

2. The Architect's Fee.—The fee payable by the Owner to the Architect for his personal professional services shall be as named elsewhere in this Agreement.

In case of the abandonment or suspension of the work or of any part or parts thereof, the Architect is to be paid in proportion to the services rendered on account of it up to the time of its abandonment or suspension, such proportion being 20% upon completion of preliminary sketches and 60% upon completion of working drawings and specifications.

¹ A form of agreement between owner and architect on the fee plus cost system. Copyright 1917, by the American Institute of Architects, The Octagon, Washington, D. C.

If the scope of the work or the manner of its execution is materially changed subsequent to the signing of the Agreement the fee shall be adjusted to fit the new conditions.

If additional personal service of the Architect is made necessary by the delinquency or insolvency of either the Owner or the Contractor, or as a result of damage by fire, he shall be equitably paid by the Owner for such extra service.

3. The Architect's Costs.—The Architect shall maintain an efficient and accurate cost-keeping system as to all costs incurred by him, in connection with the subject of this agreement, and his accounts, at all reasonable times, shall be open to the inspection of the Owner or his authorized representatives.

The costs referred to in this Article comprise the following items:

(a) The sums paid for drafting, including verification of shop drawings, for specification writing and for the supervision of the work.

(b) The sums paid to structural, mechanical, electrical, sanitary or other engineers.

(c) The sums paid for incidental expenses such as costs of transportation or living incurred by the Architect or his assistants while traveling in discharge of duties connected with the work, costs of reproducing drawings, printing or mimeographing the specifications, models, telegrams, long distance telephone calls, legal advice, expressage, etc.

(d) A proportion of the general expenses of the Architect's office, commonly called "Overhead," representing items that can not be apportioned in detail to this work, such as rent, light, heat, stenographer's services, postage, drafting materials, telephone, accounting, business administration, etc.

It is agreed that the charge for such general expenses shall be ——— per cent. of item (a) of this article.

4. Payments.—On or about the first day of each month the Architect shall present to the Owner a detailed statement of the payment due on account of the fee and the costs referred to in Article 3 and the Owner shall pay the Architect the amount thereof.

5. The Owner's Decisions.—The Owner shall give thorough consideration to all sketches, drawings, specifications, proposals, contracts and other documents laid before him by the Architect and, whenever prompt action is necessary, he shall inform the Architect of his decisions in such reasonable time as not to delay the work of the Architect nor to prevent him from giving drawings or instructions to Contractors in due season.

6. Survey, Borings and Tests.—The Owner shall furnish the Architect with a complete and accurate survey of the building site, giving the grades and lines of streets, pavements and adjoining properties; the rights, restrictions, boundaries and contours of the building site, and full information as to sewer, water, gas and electrical service. The Owner is to pay for test borings or pits and for chemical, mechanical or other tests when required.

7. Supervision of the Work.—The Architect will endeavor to guard the Owner against defects and deficiencies in the work of contractors, but he does not guarantee the performance of their contracts. The supervision of an Architect is to be distinguished from the continuous personal superintendence to be obtained by the employment of a clerk-of-the-works.

When authorized by the Owner, a clerk-of-the-works, acceptable to both Owner and Architect, shall be engaged by the Architect at a salary satisfactory to the Owner and paid by the Owner.

8. Preliminary Estimates.—When requested to do so, the Architect will make or procure preliminary estimates on the cost of the work and he will endeavor to keep the actual cost of the work as low as may be consistent with the purpose of the building and with proper workmanship and material, but no such estimate can be regarded as other than an approximation.

9. Ownership of Documents.—Drawings and specifications as instruments of service are the property of the Architect whether the work for which they are made be executed or not.

10. Successors and Assignment.—The Owner and the Architect, each binds himself, his successors, executors, administrators and assigns to the other party

to this agreement, and to the successors, executors, administrators and assigns of such other party in respect of all the covenants of this Agreement.

The Architect shall have the right to join with him in the performance of this agreement, any architect or architects with whom he may in good faith enter into partnership relations. In case of the death or disability of one or more partners, the rights and duties of the Architect, if a firm, shall devolve upon the remaining partner or partners or upon such firm as may be established by him or them, and he, they or it, shall be recognized as the "successor" of the Architect, and so on until the service covered by the agreement has been performed. The Owner shall have the same rights, but in his case no limitation as to the vocation of those admitted to partnership is imposed.

Except as above, neither the Owner nor the Architect shall assign, sublet or transfer his interest in this agreement without the written consent of the other.

11. Arbitration.—All questions in dispute under this agreement shall be submitted to arbitration at the choice of either party.

No one shall be nominated or act as an arbitrator who is in any way financially interested in this contract or in the business affairs of either party.

The general procedure shall conform to the laws of the State in which the work is to be erected. Unless otherwise provided by such laws, the parties may agree upon one arbitrator; otherwise there shall be three, one named in writing by each party and the third chosen by these two arbitrators, or if they fail to select a third within ten days, then he shall be chosen by the presiding officer of the Bar Association nearest to the location of the work. Should the party demanding arbitration fail to name an arbitrator within ten days of his demand, his right to arbitration shall lapse. Should the other party fail to choose an arbitrator within said ten days, then such presiding officer shall appoint such arbitrator. Should either party refuse or neglect to supply the arbitrators with any papers or information demanded in writing, the arbitrators are empowered by both parties to proceed ex parte.

The arbitrators shall act with promptness. If there be one arbitrator his decision shall be binding; if three, the decision of any two shall be binding. Such decision shall be a condition precedent to any right of legal action, and wherever permitted by law it may be filed in Court to carry it into effect.

The arbitrators shall fix their own compensation, unless otherwise provided by agreement, and shall assess the costs and charges of the arbitration upon either or both parties.

The award of the arbitrators must be in writing, and, if in writing, it shall not be open to objection on account of the form of the proceedings or the award, unless otherwise provided by the laws of the State in which the work is to be erected.

The Owner and the Architect hereby agree to the full performance of the covenants contained herein,

In witness whereof, they have executed this agreement, the day and year first above written.

This contract is drawn on the fee plus cost basis. If it is desired to base the contract on a straight fee or on a percentage of the total cost of the work, the necessary changes can be made and Article 3 of the conditions can be eliminated.

See references under § 3853.

For standard form of building contract, see §§ 3821, 3822 and 3829.

§ 3854-1. Contract of Employment—Architect—Percentage basis.

This agreement made the _____, day of _____, in the year Nineteen Hundred and _____, by and between A. B. of the _____, County of _____ and State of _____, hereinafter called the Owner, and C. D., of the _____, County of _____ and State of _____, hereinafter called the Architect, _____;

WITNESSETH, that whereas the Owner intends to erect [insert general nature of building, location, etc.].

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Now, therefore, the Owner and the Architect for the consideration herein-after named, agree as follows:

The Architect is to prepare preliminary studies consisting of drawings, such as ground floor plans and elevation or perspective view of exterior, necessary to illustrate the general scheme of improvement before making general working drawings; then to proceed with the general working drawings, specifications and details, prepare form of advertisement for bidders, assist in receiving bids, draw up form of contract and bond between Owner and Contractor.

Architect is to furnish six copies of all general working drawings and specifications. The Owner shall pay the cost of producing any additional copies of the plans and specifications that may be required by contractors in estimating the work and in the construction.

The Architect is to supervise or superintend the construction of said improvement, which means such inspection by the Architect, or his deputy, of the building or other work in process of erection completion or alteration, as he finds necessary to ascertain whether it is being executed in conformity with his designs and specifications or directions, and to enable him to decide when the successive instalments of payments provided for in the contract with the contractor are due and payable. He is to determine in constructive emergencies, to order necessary changes and to define the true intent and meaning of the drawings and specifications.

At the time of entering into the agreement with a contractor for the construction of the work contemplated by this contract, a reasonable period of time for the completion of the work shall be mutually determined by the Owner, Architect and Contractor, and should the services of the Architect in supervising the work extend beyond the time so determined, the Owner shall compensate the Architect for his cost incurred by reason of such additional supervision.

All services of the Architect to be rendered to the best of his ability. The Architect will endeavor to guard the Owner against defects and deficiencies in the work of contractors, but he does not guarantee the performance of their contracts.

When requested to do so, the Architect will make or procure preliminary estimates of the cost, but no such estimate can be regarded other than an approximation.

Owner is to pay said Architect for the above mentioned services an amount equal to six (6) per cent, based on the entire cost to the Owner of said improvement. The cost of the work is interpreted to mean the total of the contract sums. When labor or material is furnished by the Owner below its market cost or when old materials are re-used, the cost of the work is to be interpreted as the cost of all materials and labor necessary to complete the work, as such cost would have been if all materials had been new and if all labor had been fully paid at market prices current when the work was ordered, plus contractor's profit and expenses. The architect's fees are due and payable, based on cost of work, as follows: One (1%) when the preliminary plans have been completed; Two and one-half (2½%) when, plans and specifications have been completed in readiness for contractors in estimating and construction; Two and one-half (2½%) in instalments as the work progresses based on the payments made to contractors. Until an actual estimate is received, the charges are based on the proposed cost of the works, and the payments are received as instalments of the entire fee, which is based upon the actual cost.

No deductions shall be made from the Architect's fee on account of penalty, liquidated damages, or other sums withheld from payments to contractors.

All drawings and specifications, as instruments of service, are the property of the Architect, except one complete copy which is to be furnished to the Owner.

In case of abandonment or suspension of the improvements, a charge for partial services will be made by the Architect in proportion to the services rendered.

For alterations and additions after general working plans and specifications have been accepted by Owner, an additional charge is to be made, which will be valued in proportion to the additional time and services employed.

The Owner and the Architect hereby agree to the full performance of the covenants contained herein.

In witness whereof, etc.

§ 3854-2. Contract of employment—Architect or engineer employed by state.

Whereas, the General Assembly of the State of _____ has made an appropriation for an improvement at _____ as shown by the following item: _____, and,

Whereas, the _____ [insert name of Board, etc.] having charge of said institution desires to proceed with said improvement, and has requested the _____ [insert name of Department, etc.] to prepare plans and estimates therefore, and,

Whereas, the _____ [insert name of Department, etc.], in the carrying out of said improvement, is desirous of engaging the services of the Architect [Engineer] hereinafter named:

Now, therefore, this agreement made this _____ day of _____, A. D. 19____, by and between the State of _____, of the one part, acting by its _____ [insert name of Department, etc.], and A. B., hereinafter referred to as Architect [Engineer], of the other part, WITNESSETH:

The State of _____ does, under the conditions named below, hereby employ the Architect [Engineer] for the rendition to it, under the direction, subject to the orders and to the satisfaction of the _____ [insert name of Department, etc.] of the following services with respect to said improvement, to wit:

I.

(1) To prepare plans, specifications (bills of material) and estimates of cost.

(2) To superintend the construction of said improvement.

(3) To inspect the materials going into said improvement previous to their incorporation into the same.

The preparation of plans shall consist of first preparing and submitting to the _____ [insert name of Department, etc.] of preliminary studies consisting of drawings, such as ground floor plans and elevation or perspective view of exterior necessary to illustrate the general scheme of the improvement before making general working drawings, which preliminary studies shall be accompanied by a general approximate estimate of the cost. Thereafter, upon receiving an order to do so from the _____ [insert name of Department, etc.], the Architect [Engineer] shall prepare full and accurate plans, suitable for the use of mechanics and other builders in the making of the improvement above named; details to scale and full sized, so drawn and represented as to be easily understood; accurate bills showing the exact quantities of different kinds of materials necessary to the making of said improvement; definite and complete specifications of the work to be performed, together with such directions as will enable a competent mechanic or other builder to carry them out and afford bidders all needful information; a full and accurate estimate of each item of expense and of the aggregate cost of the improvement; and such further data as may be required by the _____ [insert name of Department, etc.]. The Architect [Engineer] shall furnish the following number of plans and specifications: _____.

The superintendence to be furnished by the Architect [Engineer] shall be held to mean daily and continuous superintendence either by the Architect

[Engineer] himself or by a representative in his employ. Such representative shall at all times during the course of the improvement be subject to the approval of the ——— [insert name of Department, etc.].

It shall be part of the duty of the Architect [Engineer] in preparing working plans to satisfy himself as to the topographic conditions and bearing values at the site of the improvement; and if surveys are necessary for that purpose, the Architect [Engineer] shall make such surveys, or have them made, at his own expense.

II.

All original drawings and specifications immediately upon completion by the Architect [Engineer] shall be the property of the State of ———, and upon request of the ——— [insert name of Department, etc.] shall be delivered to it. Said Department or any authorized representative thereof shall at all reasonable times have the right to inspect and examine such drawings and specifications or copies thereof when the same are in the possession or at the office of the Architect [Engineer] for working use.

III.

At the time of entering into the agreement with a contractor for the construction of said improvement or a part thereof, a reasonable period of time for the completion of the work shall be determined upon by the board or officer having control of the institution at which said improvement is to be made, and the ——— [insert name of Department, etc.]; and should the services of the Architect [Engineer] in superintending the work extend beyond the time so determined, the Architect [Engineer] will be compensated for his cost incurred by reason of such additional superintendence.

IV.

All services of the Architect [Engineer] are to be rendered to the best of his ability. If at any time in the judgment of the ——— [insert name of specific officer], the services of the Architect [Engineer] are unsatisfactory, the State of ———, acting by said ——— [insert name of officer], or his successor, may terminate the services of the Architect [Engineer] allowing him such compensation, if any, as in the judgment of said ——— [insert name of officer], or his successor, may then be due such Architect [Engineer].

The ——— [insert name of officer] may remove from the work any representative or superintendent of the Architect [Engineer], when in the judgment of said ——— [insert name of officer] such representative or superintendent is incompetent or is not rendering satisfactory service.

V.

It is understood that any contract or contracts entered into by the State of ——— or the board or officer having control of the institution above named, for said improvement work above named, shall specify that the Architect or Engineer in charge is the ——— [insert name of Department, etc.], and the final determination of any and all questions arising with respect to the definition and construction of the meaning and intent of the drawings, specifications and terms of the contract shall rest with the ——— [insert name of Department, etc.].

VI.

The State of ——— agrees to pay the Architect [Engineer] as full compensation for his services as aforesaid, and any and all expenses incurred by said Architect [Engineer] in performing said services, an amount equal to ——— per cent. of the amount paid out by the State of ——— under and on account of contracts entered into by the State for the construction of said improvement. When labor or material is furnished by the State of ———, the

actual cost to the State of — shall be taken as the basis for computing the Architect's [Engineer's] compensation. The Architect's [Engineer's] compensation will be paid by requisitions issued in his favor by the — [insert name of Department, etc.] upon the board or officer having control of the institution at which the improvement is made, and such compensation shall become due and payable in the following order: — per cent. when the preliminary plans have been completed and approved by the — [insert name of Department, etc.] and the board or officer having charge of the institution at which the improvement is to be made; a further — per cent. when plans, specifications (bills of material) and estimates of cost have been completed in readiness for contractors, and accepted and approved by the — [insert name of Department, etc.], and the board or officer having control of the institution at which the improvement is to be made; and a further — per cent. in instalments as the work progresses, based on payments made to contractors. Such payments shall be based in the first instance on the estimated cost, and are to be treated as instalment payments on the entire fee based upon the actual cost.

In case of abandonment or suspension of the improvements, the Architect [Engineer] will be allowed as compensation for partial services such amount as may in the judgment of the — [insert name of Department, etc.], be proper. For alterations and additions after general working plans and specifications have been approved and accepted by the — [insert name of Department, etc.] and the board or officer having charge of the institution at which the improvement is to be made, an additional payment will be made to the Architect [Engineer] in such sum as may in the judgment of the — [insert name of Department, etc.], be proper.

In witness whereof, the parties hereto have hereunto set their hands on the day and year first above mentioned, the State of — signing and sealing these presents by its — [insert name of Department, etc.].

The State of —

— [insert name of Department, etc.],

By — [insert name and official designation of proper officer].

[Seal.]

A. B.,

Architect [Engineer].

APPROVAL BY BOARD, DEPARTMENT OR OFFICER HAVING CHARGE OF INSTITUTION

The above contract by and between the State of — and — Architect [Engineer] is hereby approved by —, —, 19—.

.....	
.....	
.....	

APPROVAL BY ATTORNEY GENERAL

The above contract between the State of — and — Architect [Engineer] is hereby approved this — day of —, 19—.

—, Attorney General.

§ 3855. Contract retaining attorney.

This contract entered into this — day of —, A. D. 19—, by and between A. B., of —, party of the first part, and C. D., of —, party of the second part, WITNESSES:

Whereas A. B. has a claim against X. Y., of —, growing out of — [describe nature of claim]; and whereas, C. D. is an attorney at law and is duly authorized to practice law in the State of —; now, the said A. B. does hereby retain and employ the said C. D. as attorney at law to collect said

claim; and if said C. D. shall deem it necessary, to bring an action in the courts of —, to collect said claim; and to enter into negotiations with said X. Y. or his attorney for the compromise and adjustment of said claim; but no final contract of compromise thereof shall be made without the consent of said A. B.; and upon performance of said services by said C. D., said A. B. agrees to pay to said C. D. the sum of — dollars, payable as follows: — dollars to be paid at the execution of this contract as a retainer; — dollars to be paid when the action is begun, if it is necessary to bring an action; — dollars to be paid when the claim is reduced to judgment in the court of —; and in case the amount is collected either with or without legal proceedings the full amount of said — dollars or the balance thereof then remaining unpaid shall be paid by said A. B. to said C. D. at once. (If the contract is made for a contingent fee, the provision for compensation should be as follows: "said A. B. agrees to pay to said C. D., as compensation for his services, a sum equal to — per cent. of the amount which may be collected upon said claim, either by legal proceedings or otherwise.") In addition to said compensation, said A. B. agrees to reimburse said C. D. for any necessary and reasonable expenses which said C. D. may be obliged to incur in the prosecution of said action. (The following clause may be added: but before incurring any such expenses exceeding the amount of — dollars the written consent of A. B. shall first be had and obtained.)

In consideration of the foregoing covenants on the said A. B., said C. D. accepts said retainer and employment, and he hereby agrees to collect said claim without legal proceedings if practicable, and if necessary he agrees to commence and to prosecute said action as aforesaid.

In witness whereof, etc.

See references under § 3853.

For the validity of contracts for contingent fees, etc., see §§ 699 et seq. For form of assignment of judgment to attorney, see § 3798.

§ 3856. Employment—Band for concerts.

This contract made and entered into this — day of —, by and between the X. Y. Company, of —, a corporation, party of the first part, and A. B., party of the second part;

WITNESSETH, that the party of the first part hereby engages the professional services of the party of the second part and his band of — skilled musicians, with — as the conductor of said band, for a period of —, beginning —, and ending and including —, to give and render two concerts daily during said period, one in the afternoon, and the other in the evening, at the —, in the City of —.

The party of the second part hereby agrees to furnish his above-mentioned organization, consisting of — as leader and conductor and — musicians; said band and conductor to be neatly uniformed; for the term above mentioned; and to furnish band parts, music, musical instruments, and transportation to and from the City of —, and all other expenses pertaining to said band, necessary to give the said concerts in a first-class and proper manner, for the following consideration: said compensation shall be payable weekly.

For each and every time during the period of this contract that party of the second part shall fail to give a concert, there shall be deducted from the amount to be received by party of the second part the sum of —.

It is further agreed and understood that the time and duration of each of said concerts shall not be less than two and a half (2½) hours, and shall include encores or "extras." and that said concerts shall be played by said band or musical organization in such places in said — as may from time to time, during the existence of this contract, be set aside and designated by the party of the first part for that purpose.

Said afternoon concerts shall begin promptly at 2:30 o'clock P. M., and said evening concerts at 8:15 o'clock P. M. But the party of the first part may, at its option, after giving notice to the party of the second part, change the hours of beginning of the same; and the entire band shall be on the grounds and ready to perform fifteen (15) minutes previous to the time of beginning each concert.

It is further agreed that the party of the second part shall, at his own expense, furnish the usual quantity of lithographs, printed posters and other advertising material to properly advertise said concerts; the party of the first part agreeing to post said advertising material at its own expense.

It is further understood and agreed and this contract is made upon the express condition that as the — is a place of amusement and instruction in which the entire public of — is interested, and it is the desire of its management to avoid any friction which might arise from the employment of union and non-union musicians, the musicians employed by the party of the second part shall belong to the American Federation of Musicians, or allied to that body in such a manner as to avoid any objection by the Federation of Musicians to the party of the second part or any member of his said band fulfilling this contract; and in case the party of the second part, through himself or any member of his band, or otherwise, violates this express condition, the party of the second part hereby agrees to pay to the party of the first part as liquidated, stipulated and agreed damages and in no wise as a penalty, the sum of One Thousand Dollars (\$1,000.00). And in case this condition is violated as above set forth, the party of the first part may apply any moneys which it may have in its hands belonging to the party of the second part, toward the payment of said agreed damages, and may cancel this agreement as soon as it shall become known to it that any of its terms have been broken or violated.

The party of the second part further agrees that he will not, without the written consent of the party of the first part, endorsed on this contract, allow himself or his said band to play or be advertised to play at any other place of amusement or entertainment in the City of — or its vicinity during the present season, or prior to the fulfillment of this contract, or within four (4) weeks thereafter.

In witness whereof, etc.

See references under § 3853.

§ 3857. Contract of employment—Baseball player.

X. Y. LEAGUE OF PROFESSIONAL BASEBALL CLUBS

Uniform Player's Contract

Parties.—The A. B. Company, a corporation duly incorporated under the laws of the State of —, herein called the Club, and C. D., of —, herein called the Player.

Recital.—The Club is a member of the X. Y. League of Professional Baseball Clubs. As such, and jointly with the other members of the League, it is a party to agreements with the S. T. League of Professional Baseball Clubs and its constituent clubs and with the National Association of Professional Baseball Leagues. The purpose of these agreements is to insure to the public wholesome and high-class professional baseball by defining the relations between club and player, between club and club, between league and league and by vesting in a designated Commissioner broad powers of decision in case of disputes.

Agreement.—In view of the facts above recited the parties agree as follows:

Employment.—1. The Club will pay the Player a salary for his skilled services during the playing season of 19—, at the rate of \$—— per month, making an aggregate of \$—— for the season.

Salary.—2. The salary above provided for shall be paid by the Club as follows:

In semi-monthly instalments after the commencement of the period covered by this contract, unless this contract shall be terminated by the Club while the Player is "abroad" with the Club for the purpose of playing games, in which event the amount then due shall be paid on the first week-day after the return "home" of the Club.

Loyalty.—3. The Player during said season will faithfully serve the Club or any other Club to which, in conformity with the agreements above recited, this contract may be assigned, and pledges himself to the American public to conform to high standards of fair play and good sportsmanship.

Service.—4. The Player will not play during 19— otherwise than for the Club or for such other Clubs as may become assignees of this contract in conformity with said agreements.

Assignment.—5. In case of assignment of this contract to another Club each successive assignee shall become liable to the Player for his salary during his term of service with such assignee, and the Club shall not be liable therefor. If the assignee is a member either of the National or American League, the salary rate shall be as above specified. If the assignee is any other club the salary rate shall be the same as that usually paid by said club to other players of like ability.

Discipline.—6. (a) The Player accepts as part of this contract the Regulations printed on the third page hereof and such reasonable modifications of them as the Club may announce from time to time.

(b) This contract may be terminated at any time by the Club or by any assignee upon ten days' written notice to the Player.

(c) The Player submits himself to the discipline of the Commissioner and agrees to accept his decisions rendered pursuant to the Major League Agreement.

Renewal.—7. (a) Any time prior to February ——, 19—, by written notice to the Player, the Club or any assignee thereof may renew this contract for the term of that year except that the salary rate shall be such as the parties may then agree upon, or, in default of agreement, such as the Club may fix.

(b) In default of agreement, the Player will accept the salary rate thus fixed or else will not play during said year otherwise than for the Club or for an assignee hereof.

(c) The reservation to the Club of the valuable right thus to fix the salary rate for the succeeding year and the promise of the Player not to play during said year otherwise than with the Club or an assignee hereof, have been taken into consideration in determining the salary specified herein and the undertaking by the Club to pay said salary is the consideration for both the reservation and the promise.

Disputes.—8. In case of dispute between the Player and the Club or any assignee hereof the same shall be referred to the Commissioner as an umpire, and his decision shall be accepted by all parties as final.

Signed this —— day of ——, A. D. 19—.

[Seal]

Witnesses:

_____,
_____.

_____,
By _____ (Club),
_____ (Player).

REGULATIONS

1. The Playing Season for each year covered by this contract and all renewals hereof shall be as fixed by the National League of Professional Baseball Clubs.

2. The Player must keep himself in first-class physical condition and must at all times conform his personal conduct to standards of good citizenship and good sportsmanship.

3. The Player, when requested by the Club, must submit to medical examination at the expense of the Club and, if necessary, to treatment by a regular physician in good standing at the player's expense. Disability directly resulting from injuries sustained while rendering service under this contract shall not impair the right of the Player to receive his full salary, but any other disability may be ground for suspending or terminating this contract at the discretion of the Club.

4. The Club will furnish the Player with two complete uniforms, exclusive of shoes, the Player making a deposit of \$30.00 therefor, which deposit will be returned to him at the end of the season or upon the termination of this contract, upon the surrender of the uniforms by him to the Club. And the Club will provide and furnish the Player while "abroad" or traveling with the Club in other cities with proper board, lodging, and pay all proper and necessary traveling expenses, including Pullman accommodations and meals en route.

5. The Player shall not without the consent of his Club engage during the term of this contract or any renewal thereof in any game or exhibition of baseball, football, basket ball or other athletic sport except for the Club or for an assignee of this contract.

6. For violation by the Player of any regulation the Club may impose a reasonable fine and deduct the amount thereof from the Player's salary or may suspend the Player without salary for a period not exceeding thirty days, or both, at the discretion of the Club. Written notice of the fine or suspension or both and of the reasons therefor shall in every case be given to the Player.

7. In order to enable the Player to fit himself for his duties under this contract, the Club may require the player to report for practice at such places as the Club may designate, and to participate in such exhibition contests as may be arranged by the Club for a period of ——— days prior to the playing season without any other compensation than that herein elsewhere provided, the Club, however, to pay the traveling expenses, including Pullman accommodations, and meals en route of the Player from his home city to the training place of the Club, whether he be ordered to go there direct or by way of the home city of the Club. In the event of the failure of the Player to report for practice or to participate in the exhibition games, as provided for, a penalty by way of fine may be imposed by the Club, the same to be deducted from the compensation stipulated herein.

See references under § 3853.

§ 3858. Contract of employment of real estate broker giving exclusive agency.

This contract entered into this ——— day of ———, 19—, at ———, by and between A. B., party of the first part, and C. D., party of the second part,
WITNESSES:

That whereas, A. B. is the owner of certain realty which is described as follows: ——— [insert description of property]; and whereas, A. B. wishes to sell the same; now, in consideration of the covenants of C. D. hereinafter contained, said A. B. employs C. D. as his sole and exclusive agent for the sale of said property, for the period of ——— days from the date of this contract; said property to be sold at a price not less than ——— dollars. Said A. B. furthermore agrees that if said property is sold to a purchaser secured by the said C. D. at the

price hereinbefore set forth; or if it is sold either by said owner or through any other broker within said ——— days from the date hereof, said A. B. will forthwith pay to the said C. D. the sum of ——— dollars, as compensation for the services of said C. D. (or, the said A. B. will forthwith pay to the said C. D. ——— per cent. of the price at which said property is sold). In consideration of the foregoing covenants on the part of the said A. B., said C. D. hereby agrees to list said property for sale; to advertise the same not less than ——— times per week in the ——— [insert name of the newspaper, etc., in which the sale is to be advertised], and to use all reasonable efforts in attempting to secure a purchaser therefor.

In witness whereof, etc.

See references under § 3853.

For form of contract of sale of realty, see § 3922.

§ 3859. Contract of employment—Circus artist.

This contract made and entered into this ——— day of ———, 19—, between the X. Y. Company, a corporation hereinafter called the Employers, of the first party, and A. B., hereinafter called the Artist, of the second party,

WITNESSETH, that in consideration of the covenants and terms hereinafter stated it is mutually agreed as follows:

1. It is understood and contemplated by the parties hereto that performance under this contract shall embrace services and travel in and through the several and various States of the U. S. A. and the Dominion of Canada, the extent thereof now not being definitely ascertainable.

It is known and understood by the parties hereto that the laws of the said several States regarding the validity and interpretation of contract with releases of this nature lack uniformity, and that a few States have enacted Employers Liability Acts.

Now, therefore, acting in good faith and for the purpose of giving force and validity to this contract, and release in all its parts at all times and places, it is mutually agreed between the parties hereto that the place of this contract and release, its status or forum, is the District of Columbia, and in said District of Columbia or according to the laws thereof if construed or litigated elsewhere, shall all matters, whether sounding in contract or in tort, relating to its validity, construction and interpretation be determined to the same extent as if its execution, performance, or cause of action thereon or growing out of same, actually took place or arose in said District of Columbia.

2. The Artist hereby agrees faithfully and in the sense of making his act a success to render services to the Employers at all times and at such places in North America as the Employers may direct during the season of ———.

3. This engagement is to begin on or about the ———, 19—, the exact date to be fixed by the Employers, from which date the Artist shall be bound to perform all services hereunder that may be required by the Employers. Salary hereunder shall be reckoned only from the date of such first performance.

4. The said services, subject to the right of the Employers to require such change in the act as the standard and needs of the show require, shall in chief consist of ———.

5. The Artist shall render and perform his act or acts and services to the satisfaction of the Employers and by and with the identical persons or animals composing the troupe on the date upon which the Artist signs this agreement or agrees to this employment; and there shall be no persons substituted or changes made in the personnel of the troupe other than by the written request or agreement of the Employers.

6. The Artist is engaged exclusively by the Employers and during the period of this contract shall not perform, either gratuitously or otherwise for any other person, firm or corporation without permission of the Employers first obtained in writing.

It is mutually understood that the services herein to be rendered are special, unique and extraordinary, and may not be replaced by the Employers, and it is agreed that in the event of a breach or violation of this contract by the Artist or in the event of his quitting the services of the Employers then that an injunction restraining the Artist from performing for any other person, firm or corporation for the unexpired season as fixed herein together with renewal period, may issue out of a court of competent jurisdiction, and that the Artist shall pay the Employers all costs and attorneys fees occasioned thereby.

7. The Artist further agrees that if at any time during the term of this contract his services herein shall not be performed to the satisfaction of the Employers or shall not conform to the class and standard promised and undertaken by the Artist, or for any breach or violation by the Artist of his covenants and obligations hereunder, then the Employers at any time and place may release themselves from the terms of and terminate this instrument by giving one week's notice, and by payment of salary to date of cancellation only, it being understood that in the salary paid hereunder there is a particular allowance and consideration in support of this provision.

8. The term "season" as herein used shall mean the time limited between the commencement and ending of services to be rendered by the Artist as fixed by the Employers.

9. The Employers hereby agree to pay the Artist the sum of ———, payable weekly, for each week's work performed hereunder, and while exhibiting under canvas only, offer for the Artist's accommodation, board and the use and occupancy of their cars. In no case will salary be paid to or demanded by the Artist for any day when no services are rendered or for any performance omitted any day, either because of the Artist's non-performance or from any cause whatsoever. The Employers shall hold back one week's salary of the Artist as a guarantee of good faith.

Twelve performances shall constitute one week's work.

If in any week performances in excess of twelve shall be rendered by the Artist the same shall be paid for in proportion to the weekly salary herein agreed to be paid; but no charges shall be made or salary paid for rehearsals during or previous to this engagement.

10. The Artist agrees to participate in all entrees, spectacles, parades, attend any and all rehearsals whenever and wherever requested to be so by the Employers.

11. It is especially agreed that pet animals, firearms and explosives shall neither be brought nor carried in or upon sleeping cars, and the Artist further recognizes that gambling, drunkenness, the use of profane, vulgar and abusive language, immoral, offensive or unlawful conduct are at all times and places absolutely prohibited, and the Artist agrees to abide by all the rules and regulations of and from time to time made by the Employers, which may in the Employers' judgment be deemed proper and necessary for the good government and conduct of their company and members thereof. The right of the Employers to dismiss the Artist from service and terminate this contract for violation of any of said rules involving material detriment, annoyance or damage to the Employers is hereby recognized and accepted as a condition of employment under this contract for which in the salary paid special allowance and consideration is included.

12. The amount of baggage, wardrobe, apparatus and other paraphernalia carried by the Artist shall be limited to such amount, weight, size, etc., as shall be first approved by the Employers.

The following sizes only of trunks will be carried on cars: gentlemen artist size, 18 x 18 x 24; lady artist size, 20 x 22 x 28; lady rider artist size, 20 x 22 x 30.

13. The Artist further agrees that in the event of the termination of this agreement from any cause whatever, no claim shall be made for the use of any lithographs, poster or other printed matter, describing the business, or containing the Artist's name by the Employers until said advertising matter is used up.

14. The Employers shall have the option of renewing this agreement for the season of — by giving notice thereof in writing to the Artist not less than two weeks prior to the close of this season.

15. The Artist represents and understands that his act with the apparatus used in connection therewith is an ingenious creation of his own, that by reason of the experience of the Artist in the circus business and his familiarity with the task of daily adjusting and making his apparatus and act safe and secure under constantly varying conditions of grounds, varying degrees of rainfall, winds, and occasional storms, he is in position better able than the Employers to inspect the condition and determine the safety of premises; and timely presentation of the circus exhibition of which the Artist's act is a part, being of vital concern regarding which late entry into town, bad streets, long hauls, varying conditions of ground or weather as well as other causes unforeseen impose haste and varying burdens, risks and duties upon the Artist.

Now, therefore, it is expressly agreed that the Artist shall furnish in first-class condition at his expense all apparatus, paraphernalia, equipment and material constituting and used in his or her act and shall be solely responsible for suitably maintaining same in a safe condition throughout the season. That the Artist assumes and undertakes to make and keep the premises safe. That the Artist assumes exclusive supervision regarding inspection of grounds, tents and premises as affecting the safety of said act and assumes exclusive supervision and control regarding the inspection, construction, state of repair and use of and practice by any person upon said apparatus at all times and under all circumstances, and

In any services or assistance by and from employes of the Employers in constructing or using said apparatus said persons are thereby expressly and exclusively made the servants and agents of the Artist, the latter assuming exclusively all responsibility and liability for injuries that in any manner may result, and

The Artist hereby agrees and undertakes that any and all persons using said apparatus or appearing in said act in any manner shall be first by him fully acquainted with its construction and operation and shall be skilled and competent in the use thereof, and before commencing work shall sign a contract with the Employers.

The Artist hereby agrees and undertakes as a part of the consideration of this contract to protect, indemnify and save the Employers harmless with respect to any money the Employers may be compelled to pay or surrender or liability to which the Employers may be subject in consequence of any claim, cause of action or liability due to injury sustained or death in connection with said apparatus or act, either the Artist or by any person whatsoever, whether to a servant of the Artist, a performer or an employe, and particularly including but not exclusively, all persons performing or practicing on said apparatus or therewith, whether within the scope of their employment or otherwise, at all times and under all circumstances, and

No change in said apparatus, device or act of the Artist required or made at the instance of the Employers at any time, shall modify or affect the obligation or liability herein undertaken by and resting upon the Artist.

16. It is clearly known and understood and specially contemplated by the parties hereto:

(a) That the character of the service to be performed involves hazard.
(b) That the place of performance changes from day to day with constantly changing conditions of premises, with attendant varying degrees of safety.

(c) That the times, manner and means of transportation offered and furnished by the Employers increase the risk of travel beyond the ordinary.

(d) That the circus trains of the Employers, with all persons and property thereon, are transported not as common carrier but by private arrangement, whereby the Employers agree to hold and save transporting railway or railroad harmless and free from claim or liability for injury to the person or property of the Artist, his servants and troupe, whether occasioned through the negligence of said railroad, its officers or employees, said railroad assuming no liability for injury to the Artist by its negligence or otherwise in any manner.

(e) That all said contracts now or during the course of employment entered into between the Employers and transporting railroads, the Artist hereby ratifies and agrees thereto to be bound, the same being the means of furnishing opportunity for this employment.

(f) The Artist renounces his rights as "passenger"; that no relations of common carrier exist either between the Artist and the Employers or the Artist and any railroad while traveling in or occupying cars of the Employers, or while on railroad tracks in going to or from said cars.

(g) That the Artist at all times is free to elect whether he or she will accept traveling accommodations offered by the Employers and usual in the circus business, thereby effectually and unconditionally releasing from liability for all negligence the transporting railroad and the Employers as herein provided, or to choose and obtain at the Artist's personal expense regular railroad transportation between exhibition stands.

(h) It is recognized and understood that the peculiar nature of the circus business requires these and similar extraordinary covenants and conditions of release and assumption of risk elsewhere contained in this contract, all of which are hereby mutually entered into and accepted with binding effect, and for which in the salary paid herein there is included a particular allowance as express consideration supporting same.

Now, therefore, in consideration of the salary paid and acknowledging that said release from the Employers to transporting railroads is a material consideration herein, and recognizing special but not exclusive consideration from the extensive travel, widened opportunity to present acts and advertise same, benefits of board and traveling accommodations on circus cars, benefits in securing other engagements gained by connection with the Employers institution, and benefits beyond the scope of employment, the Artist does hereby release and forever discharge the Employers from all claims, demands, liability and cause of action for personal injury to the Artist and loss or injury to property, and for sickness and death, whether sustained or received while in the performance of his duty or otherwise or while occupying or traveling in circus trains, or on railroad tracks or yards, whether due to the fault or negligence in any degree of the Employers, their agents or employees or any transporting railroad, its officers or servants in any manner, and

The Artist further does hereby and upon the consideration and conditions hereinabove recited release and forever discharge each and every railroad com-

pany, its officers and servants engaged in transporting the Employers' circus of and from all claims, demands, liabilities and causes of action for injury to the person or property of the Artist while on its tracks or yards, or while occupying or being transported in said circus cars and in any manner, place or time received, whether due to the fault or negligence of said railroad, its officers, agents or servants, or the Employers or their servants, acting separately or combined, and

The Artist further agrees to protect, indemnify and save the Employers harmless with respect to any money the Employers may be compelled to pay or surrender or liability to which the Employers may be subject in consequence of any accident or injury or death to the Artist or to any servant in the employ of the Artist while occupying circus cars or while upon the tracks or yards of any said railroad company, and the Artist does hereby give the right at any time to the Employers to assign this contract to any such railroad to be used in its defense.

In witness whereof, etc.

See references under § 3853.

§ 3860. Contract of employment of clerk, etc.

This contract entered into at ———, this ——— day of ———, 19—, by and between A. B., of ———, party of the first part, and C. D., of ———, party of the second part, WITNESSES:

That said party of the first part in consideration of the promises and agreements of said party of the second part herein contained, hereby promises and agrees to enter into the employ of said party of the second part for the period of ———, from the date hereof as clerk (or, salesman, or, cashier), in his store, and faithfully, honestly and diligently to perform such duties as may be required of him in that capacity by said party of the second part.

In consideration whereof, said party of the second part hereby promises and agrees to pay to said party of the first part the sum of ——— dollars (\$——) per ———, at the end of each and every ——— during said period of ———.

It is mutually agreed by and between the parties hereto that said party of the second part may rescind and annul this agreement at any time before the expiration of said period of ——— if said party of the first part shall fail to perform his duties properly and diligently, or shall fail to be temperate and honest.

In witness whereof, etc.

See references under § 3853.

§ 3861. Contract for the employment of sales agent—Exclusive territory.

This contract entered into at ———, ———, this ——— day of ———, 19—, by and between the A. B. Company, a corporation organized under the laws of ———, and engaged in the manufacture of ———, at ———, party of the first part, and C. D., of ———, party of the second part, WITNESSES:

That said party of the first part has appointed and by these presents does hereby appoint said party of the second part as its sole and exclusive agent for the sale of ——— of its manufacture in the States of ——— to the jobbing

and first-class retail trade, for the period of —, beginning on —, 19—, and ending —, 19—, and said party of the first part in consideration of the promises and agreements of said party of the second part herein contained hereby promises and agrees:

1. To pay to said party of the second part of the following commissions on all — by it sold in said States of —, during the continuance of this agreement, whether said sales be made directly through said party of the second part or through mail orders, or through any other means or agencies whatever: on sales to the jobbing trade, — per cent.; on sales to the retail trade, — per cent.;

2. To render a true and accurate statement to said party of the second part, on the first day of each and every month during the continuance of this agreement, showing the number, kind and amount of — shipped by said party of the first part into said States of —, during the month next preceding, and to then pay to said party of the second part his commissions on such sales;

3. To furnish said party of the second part with a reasonable quantity of samples, which shall remain the property of said party of the first part;

4. To promptly fill all orders received from said territory with — equal to the samples so furnished to said party of the second part.

In consideration whereof, said party of the second part hereby promises and agrees:

1. To enter the employ of said party of the first part for said period of —, and to faithfully and diligently endeavor to sell the — of the manufacture of said party of the first part within said territory;

2. To call on said trade at least once in each ninety days during the continuance of this agreement; .

3. To report his sales to said party of the first part daily, if practicable, and at least three or four times each week;

4. Not to handle or sell, during the continuance of this agreement any — such as the — brand, excepting — manufactured by said party of the first part;

5. To pay all of his own traveling expenses and hotel bills, hereby waiving all claims therefor against said party of the first part.

It is mutually agreed by and between the parties hereto on the consideration aforesaid:

1. That said party of the second part may handle and sell, during said time and within said territory, — of other manufacture, which are of different grades than the — hereinbefore described;

2. That said party of the second part shall not be entitled to commissions on any shipments of goods into said territory which may be refused by the consignee, or returned to said party of the first part. If commissions have been paid on any shipments which are refused or returned, said party of the first part may deduct the same from its next payment to said party of the second part;

3. That said party of the first part may, without liability for commission, reject orders received from said territory in the event the parties by whom said orders are given are regarded by said party of the first part as unworthy of credit.

In witness whereof, etc.

See references under § 3853.

§ 3862. Contract for sale on consignment.

This contract entered into at —, by and between the X. Y. Company, of —, a corporation duly organized under the laws of —, party of the first part, and C. D., of —, party of the second part, WITNESSES:

That said party of the first part, in consideration of the promises and agreements herein contained, has this day appointed, and does by these presents hereby appoint, said party of the second part as its duly authorized agent in the City of —, for the sale, on commission, of the consigned goods, wares and merchandise hereinafter described.

Said party of the first part, in consideration of the promises and agreements of said party of the second part herein contained, hereby promises and agrees:

1. To furnish and consign to said party of the second part, whenever and as long as said party of the first part may have the same in stock to enable it so to do, the goods, wares and merchandise specified on the schedule hereto annexed, or on schedules or written requests of said party of the second part hereafter made; said schedules or written requests to specify the net amounts to be received by said party of the first part for said goods, wares and merchandise after the same shall have been sold by said party of the second part as such agent, and when said schedules or written requests, properly signed by said party of the second part, have been accepted by said party of the first part, the same shall be annexed to this contract and made a part hereof, subject, however, to all the agreements and conditions hereof;

2. To allow to said party of the second part by way of reimbursement for the transportation charges, insurance, taxes and other expenses paid by said party of the second part, and as commission to said party of the second part, for services in selling said goods, wares and merchandise, all the surplus amounts realized from said sales, over and above the net amounts specified in said schedules or written requests; and in addition thereto to allow said party of the second part — per cent. on all sales for cash.

Said party of the second part, in consideration of the promises and agreements of said party of the first part herein contained, hereby promises and agrees:

1. To receive from the transportation companies all goods, wares and merchandise furnished and consigned under this agreement, and to pay all transportation charges on the same;

2. To furnish proper warehouse room for all goods, wares and merchandise furnished and consigned under this agreement, and to carefully preserve the same, so long as they remain in the possession of said party of the second part;

3. To pay any and all taxes that may be assessed on said goods, wares and merchandise while the same remain in the possession of said party of the second part, and to pay all license fees, rent and all other expenses incurred in the safe keeping and sale of the same, and to waive all claims against said party of the first part therefor;

4. To insure, and keep insured, all of said goods, wares and merchandise, for the full value thereof, in the name of said party of the first part, without expense to it, in companies to be approved by it, and to deliver all policies of insurance to said party of the first part; and in case of any neglect or failure to so insure and keep insured, to become personally responsible for all loss or damage that may result while said property remains in the possession of said party of the second part;

5. To keep samples of said goods, wares and merchandise exhibited in sales-rooms suitable for the purpose, and to make all reasonable efforts to sell the same, and to make all sales in the name of said party of the first part;

6. To accept as full reimbursement for the transportation charges, insurance, taxes and other expenses paid by said party of the second part, and as full compensation and commission for services in handling and selling said goods, wares and merchandise, such surplus amounts as said party of the second part may realize from said sales, over and above the net amounts specified in said schedules or written requests; to look solely to said surplus so realized from sales for reimbursement and compensation, and to account to said party of the first part for all sales of goods, wares and merchandise at the net amounts specified in the schedules or written requests hereinbefore mentioned, without deductions or claims for expenses or services;

7. To remit to said party of the first part the proceeds of all cash sales less — per cent. discount on the day of sale, or the next day thereafter, by bank draft on New York or —, payable to the order of said party of the first part; and to transmit to said party of the first part all notes received from purchasers on the first day of each and every month during the continuance of this agreement, and with each remittance of notes, to render a statement showing the number and kind of goods, wares and merchandise on hand and unsold;

8. To endorse and guarantee payment of all purchasers' notes, so transmitted, in the following form, to wit: "For value received, the undersigned hereby waive notice of protest, demand and non-payment of the within note, and guarantee its payment at maturity";

9. To forward any goods, wares and merchandise received under this agreement, at any time, and as said party of the first part may direct, charging only actual cost of freight and cartage;

10. To return, at the termination of this contract, if requested by said party of the first part, at its warehouse in —, —, all goods, wares and merchandise remaining on hand unsold, in good order and free of expense or transportation charges.

It is mutually agreed by and between the parties hereto, on the considerations aforesaid:

1. That after the first consignment of goods under this agreement, the net amounts for which future consignments are to be accounted for shall be subject to such change as may be occasioned by the advance or decline in material and labor;

2. That said party of the second part, in making sales of said goods, wares and merchandise, may accept the notes of responsible purchasers in payment, or part payment, endorsed and guaranteed by said party of the second part as herein provided; said notes to be taken only on blanks furnished by said party of the first part, and made payable to said party of the first part; to bear interest at the rate of — per cent. per annum from date until paid, and shall mature not later than — months from the date of sale, and made payable at the bank or express office nearest the residence of the purchaser, with the post office address of the purchaser distinctly written thereon;

3. That in all cases where such purchasers' notes transmitted to said party of the first part, as herein provided, exceed in amount the sum to be accounted for as herein provided, the surplus of commission represented by said notes shall be paid to said party of the second part, when and for a pro rata share of the amount collected thereon by said party of the first part;

4. That this agreement shall continue and remain in effect until —, 19—, unless sooner rescinded by said party of the first part;

5. That this agreement is not assignable and if said party of the second part shall sell out, or otherwise retire from business during the continuance

of this agreement, said party of the first part may immediately rescind this agreement, and revoke the agency created hereby;

6. That if said party of the second part shall fail to faithfully and diligently perform and discharge the agreements and obligations to be performed by said party of the second part under this contract to the satisfaction of said party of the first part said party of the first part may at any time rescind this agreement and revoke the agency created hereby;

7. That the title and ownership of all goods, wares and merchandise consigned under this agreement, and the proceeds thereof, shall be and remain in said party of the first part, until settlement shall have been made therefor by said party of the second part as herein provided; and that the money and property received by said party of the second part shall not under any circumstances or conditions be confused with the private business or appropriated to the private use of said party of the second part;

8. That the full and entire agreement between the parties hereto is contained in this writing.

In witness whereof, etc.

See references under § 3853.

For form of contract of sale, see §§ 3913 to 3922.

§ 3863. Contract of employment—Theatrical contract.

THE X. Y. COMPANY

(Incorporated Under the Laws of the State of ——)

This agreement made this —— day of ——, 19——, between —— Company, a corporation duly authorized and existing under the laws of the State of ——, party of the first part, and ——, party of the second part, WITNESSETH:

I. The party of the first part hereby engages the party of the second part as act—— for the season of the play ——, to commence on or about the —— day of ——, 19——, at a salary of \$——, to be paid each week —he publicly appears and performs.

II. The party of the second part hereby accepts such engagement and agrees to serve to the satisfaction of the party of the first part in said capacity, at such theatres, places of amusement, opera houses or halls and at such times as may be required by the first party, playing the part for which —he may be cast in a correct and painstaking manner, paying strict attention as to "make-up" and the proper dressing of the character assigned and as directed by the first party; the number of performances to be given in any week to be as determined in the discretion of the party of the first part. The party of the second part agrees to furnish tights, shoes and wigs according to instructions of the party of the first part.

III. It is agreed that if performances be given during Holy Week or the Week before Christmas, only half salary is to be paid for such week or weeks.

IV. The party of the second part agrees that at any time prior to the opening of the season (that is to say before the public performances have begun), this contract may be terminated without notice by the party of the first part.

V. It is mutually agreed that the engagement may be terminated by either party after the season of the play shall have commenced, upon one week's notice in writing to the other party of intention so to do, without assigning any reason or cause for such intention.

VI. The party of the first part agrees to pay the transportation of the party of the second part while the Company is on the road, and also to carry ——— baggage up to two hundred pounds weight. If the baggage of the party of the second part shall exceed such weight, the party of the first part may advance the amount of any excess charge made by the transportation company, and shall have the right to deduct such advance from the salary of the party of the second part at the end of the week then current. Transportation does not include sleeping or parlor car fare, nor expense of carriage or stage hire, to and from hotel, station or theatre.

VII. If for any reason whatsoever the party of the first part shall be unable to give a contemplated performance, or if the party of the second part shall be unable to appear at any performance on account of sickness, or for any other reason, or if the Company shall be laid off and not play, then and in any such event, the party of the first part may deduct from the salary of the party of the second part such proportionate part of the latter's salary as the day or days so lost may bear to the whole week. It is mutually agreed that the party of the first part may lay off the Company at such times and for such periods as to it or its managers may seem advisable, and that at such times and for such periods, no salary shall be paid to the party of the second part hereunder.

VIII. It is agreed that the party of the first part shall have the right to make such rules and regulations as it may deem necessary and proper for the conduct and management of its rehearsals and performances, and the party of the second part agrees to obey all such rules and regulations, and to obey all orders and directions of the representatives of the party of the first part, and to be promptly on hand at all rehearsals which the party of the first part may call, and at railroad stations on the departure of the Company, and to travel with the Company by such routes and conveyances as the party of the first part may select; and it is specifically understood and agreed that for any breach of this agreement in any of its particulars, or any insolent treatment of or disobedience to the orders of the representatives of the party of the first part, or any violations of its rules, the party of the first part shall have the right immediately to terminate the engagement of the party of the second part, paying the latter party's salary pro rata up to the time of such termination. Party of the second part shall attend and render ——— services at all rehearsals before and during the season for which no salary or compensation shall be paid.

IX. The party of the second part specifically agrees to give to the party of the first part during the continuance of this agreement ——— exclusive services. Party of the second part must furnish photographs for newspaper use.

X. If the engagement shall be terminated on one week's notice by the party of the first part, it agrees to pay the railroad fare to New York of the party of the second part; if it is terminated upon such notice by the party of the second part, said party of the second part agrees to pay to the party of the first part the railroad expense of a successor in joining the Company, and further to pay ——— own expenses from the place at which the engagement shall so terminate.

XI. It is admitted and agreed that no other, further or additional agreement, save as herein contained, either oral or in writing, exists between the parties hereto, and that this agreement can not be modified or changed in any particular except in writing signed by the parties hereto.

XII. The parties hereto, in consideration of said employment and hiring and of the mutual promises aforesaid, finally agree, for their mutual benefit

and protection, that in the event of this agreement being terminated any dispute shall arise between them in respect to salary or a claim to salary, and the same can not be amicably adjusted between themselves, that in that event such dispute shall be submitted and referred to the award and determination of three arbitrators, who shall be chosen before entering into the subject matter of such arbitration, from among persons engaged in the theatrical profession, one by each of the parties hereto, and a third by the parties so selected, and the decision and award of any two of the three arbitrators in writing shall be final and binding between the parties hereto as to the questions aforesaid, and shall be carried out and performed by them.

XIII. It is agreed by the party of the second part that any specialty, lines or business introduced into the play by said party of the second part shall at the option of the party of the first part thereafter become a part of the play, and the sole property of the first party.

XIV. It is agreed that the party of the first part shall pay transportation to the opening point of the season, and that the party of the second part shall pay ——— own transportation from the closing point.

XV. It is understood and agreed that in the event that the party of the first part shall decide to give Sunday concerts or performances, where permitted, such concerts or performances shall be considered part of the regular weekly series and the party of the second part shall render services thereat without extra compensation.

XVI. It is further understood and agreed that party of the first part will not advance any money to the party of the second part any time prior to the opening of the season.

In witness whereof, etc.

For liability for interference with contract, see §§ 2423 et seq.
For injunction as a remedy, see § 3392.

§ 3864. Guaranty of payment, endorsed on instrument.

For value received I hereby guarantee payment of the within ——— [insert nature of instrument as bill of exchange, promissory note, etc.].

A. B.

For the necessity of written evidence, see §§ 1218 et seq.

§ 3865. Guaranty of performance of contract, endorsed on contract.

In consideration of the execution and delivery of the foregoing (or, within) contract by the above (or, within) named C. D. [name of party to whom guaranty is given], and in further consideration of one dollar paid to me by said C. D., the receipt of which is hereby acknowledged, I hereby guarantee the faithful and complete performance by the above (or, within) named X. Y. [name of party whose performance is guaranteed], of all the agreements and covenants on his part to be performed under said contract.

Provided, however, that, in case default be made by the said X. Y. in the performance of any of the agreements and covenants on his part to be performed, notice thereof shall be given to me by mail by said C. D. within ——— days after knowledge or notice thereof shall have come to the said C. D., and thereupon I shall have the right, within ——— days after receiving such notice,

myself to commence the performance of the agreements and things in respect to which such default shall have been made, and that I shall be entitled to a reasonable time thereafter in which to complete such performance.

In witness whereof, etc.

§ 3866. Guaranty of existing debt, in consideration of extension of time.

To ———, ———, 19—.

To ——— (creditor):

In consideration that you extend the time of payment of the debt of \$——, owing to you by X. Y., for ——— [insert obligation or obligations for which guaranty is given], until the ——— day of ———, 19—, I hereby guarantee the payment of said sum on said date.

Witness: ———.

A. B.

§ 3867. Limited guaranty.

To C. D.: ———, ———, 19—.

I hereby guarantee the payment by X. Y. of ——— [insert obligation or obligations for which guaranty is given] ———, at any time before ———, 19—, but my liability shall not exceed ——— dollars (\$——) at any one time.

Witness: ———.

A. B.

§ 3868. Continuing guaranty with provision for notice of default.

To C. D.: ———, ———, 19—.

I hereby guarantee the payment by X. Y. of ——— [insert obligation or obligations for which guaranty is given] ———, not exceeding an indebtedness of ——— dollars (\$——) at any one time, for which sum this shall be a continuing guaranty.

Provided, however, if said X. Y. shall fail to pay any debt for ——— [insert obligation or obligations for which guaranty is given] when due, and such default of payment shall continue for ——— days thereafter, then notice of such default shall be given to me by mail addressed to me at ———, and I shall not be liable for any ——— [insert obligation or obligations for which guaranty is given] ———. Except as above specified all notices and demands are hereby waived.

A. B.

§ 3869. General letter of guaranty.

To whom it may concern: ———, ———, 19—.

I hereby guarantee to any person who may ——— [insert obligation or obligations for which guaranty is given] ———, not exceeding ——— dollars (\$——), the prompt payment thereof, when due.

Witness: ———.

A. B.

§ 3870. Standard life insurance policy—"Ordinary" or "limited payment" life.Age ____.
Premiums \$ ____.**THE X. Y. INSURANCE COMPANY OF ____**

In consideration of ____ dollars, receipt of which is hereby acknowledged, and of the payment of ____ [insert amounts and times of payments of premiums] until ____ [insert "the death of the insured" in ordinary life, and "____ full years' premiums shall have been paid or until the prior death of the insured" in limited payment life],

Promises to pay upon receipt at the home office of the company in ____ of due proof of the death of A. B., of ____ County of ____, State of ____, herein called the insured, to C. D., beneficiary, with ____ [insert "out" if so desired] right of revocation ____ dollars, less any indebtedness hereon to the company and any unpaid portion of the premium for the then current policy year.

Change of Beneficiary.—When the right of revocation has been reserved, or in case of the death of any beneficiary under either a revocable, or irrevocable designation, the insured, subject to any existing assignment of the policy, may designate a new beneficiary with or without reserving right of revocation by filing written notice thereof at the home office of the company, accompanied by the policy for suitable endorsement thereon. If any beneficiary shall die before the insured, and the insured shall not have designated a new beneficiary the interest of such beneficiary shall be payable to the insured, ____ [insert "his" or "her"] executors, administrators or assigns.

Payment of Premiums.—The company will accept payment of premiums at other times than as stated above, as follows: ____.

Except as herein provided, the payment of a premium or instalment thereof shall not maintain the policy in force beyond the date when the next premium or instalment thereof is payable.

All premiums are payable in advance at said home office, or to an agent of the company upon delivery of a receipt signed by one or more of the following officers of the company ____ [insert titles of officers who may sign receipts], and countersigned by said agent.

A grace of one month, subject to an interest charge at the rate of ____ per centum per annum shall be granted for the payment of every premium after the first, during which month the insurance shall continue in force. If the insured shall die during the month of grace, the overdue premium will be deducted from any amount payable herein in any settlement hereunder.

Conditions.—(The policy may here provide for restrictions of liability by reason of travel, occupation, change of residence and suicide. These restrictions, except such as refer to military and naval service in time of war, must be applicable only to cases where the act of the insured provided against occurs within two years after the issuance of the policy).

Incontestability.—This policy constitutes the entire contract between the parties and shall be incontestable from its date except for non-payment of premiums and except as otherwise provided in this policy. All statements made by the insured shall in the absence of fraud be deemed representations and not warranties and no such statement shall avoid this policy unless it is contained in a written application and a copy of such application shall be endorsed upon or attached to this policy when issued.

If the age of the insured has been understated the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

Participation.—This policy shall participate in the surplus of the company, and beginning not later than the end of the ——— [insert first, second or third] policy year, the company will annually determine and account for the portion of the divisible surplus accruing hereon.

Dividends.—Dividends at the option of the owner of this policy shall, on the ——— day of ——— of each year [here may be inserted "after the first policy year" or "after the second policy year"] be either—

1. Paid in cash, or
2. Applied toward the payment of any premium or premiums, or
3. Applied to the purchase of paid-up additions to the policy, or
4. Left to accumulate to the credit of the policy with interest at ——— [here insert a rate not exceeding that used by the company for calculating its reserves] per centum per annum and payable at the maturity of the policy, but withdrawable on any anniversary of the policy.

Unless the owner of this policy shall elect otherwise, within three months after the mailing by the company by a written notice requiring such election, the dividends shall be paid in cash.

Loans.—After three full years' premiums have been paid, the company at any time, while this policy is in force, will advance, on assignment of this policy and on the sole security thereof, at a rate of interest not greater than ——— per centum per annum, which interest if not paid annually shall be added to the principle and bear the same rate of interest, a sum equal to, or, at the option of the owner of the policy, less than the reserve at the end of the current policy year on this policy and on any dividend additions thereto, computed according to the ——— [designate mortality table adopted by the company for computing reserves] mortality table, and interest at the rate of ——— [designate rate of interest adopted by the company for computing reserves] per centum per annum, less ——— [here may be inserted not more than two and one-half] per centum of the amount insured by this policy and of any dividend additions thereto.

The company, however, will deduct from such loan value any existing indebtedness to the company on the policy and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year. Such loan may be deferred by the company for not exceeding six months after the application therefor is made. Failure to repay any such advance or to pay interest shall not avoid this policy unless the total indebtedness hereon to the company shall equal or exceed such loan value at the time of such failure, and until one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any.

No condition other than as herein provided shall be exacted as a prerequisite to any such advance.

Assignment.—No assignment of this policy shall be binding upon the company until it be filed with the company at its said home office. The company assumes no responsibility as to the validity of any assignment.

Option on Surrender or Lapse.—After this policy shall have been in force three full years the owner, within one month after any default, may elect (a) to accept the value of this policy in cash, or (b) to have the insurance continued in force from date of default, without further participation and without the right to loans, for its face amount, including any outstanding dividend additions, less any indebtedness to the company hereon, or (c) to purchase non-participating paid up insurance, payable at the same time and on the same

conditions as this policy. The cash value will be the reserve at the date of default on this policy and on any dividend additions thereto, computed according to the ——— [designate mortality table adopted by the company for computing reserves] mortality table and interest at the rate of ——— [designate rate of interest adopted by the company for computing reserves] per centum per annum, less ——— [here may be inserted not more than two and one-half] per centum of the amount insured by this policy and of any dividend additions thereto, and less any existing indebtedness to the company on this policy. Payment of such cash value may be deferred by the company for not exceeding six months after the application therefor is made. The term for which the insurance will be continued or the amount of the paid-up policy will be such as the cash value will purchase as a net single premium at the attained age of the insured according to the ——— [designate the mortality table adopted by the company for computing reserves] mortality table and interest at the rate, of ——— [designate rate of interest adopted by the company for computing reserves] per centum per annum. If the owner shall not, within one month from default, surrender this policy to the company at its home office for a cash surrender value or for paid-up insurance as provided in options (a) and (c) the insurance will be continued as provided in option (b).

The figures in the following table are computed in accordance with the above provisions and upon the assumption that there is no indebtedness on the policy, and that there are no outstanding dividend additions.

(At the option of the company the following may be here inserted: "The figures apply to a policy for \$1000. As this contract is for ——— dollars the loan, cash, or paid-up insurance available in any year will be ———, the amount stated in the table for that year").

At End of Year	Cash or Loan Value	Paid-up Life Insurance	Continued Insurance		
			Years	Months	Days
3	\$.....	\$.....
4	\$.....	\$.....
5	\$.....	\$.....

(Etc.)

Figures for later years will be furnished upon request.

Reinstatement.—In case of continued temporary insurance under the above provisions this policy upon evidence of insurability satisfactory to the company may be reinstated within the first three years of the term for which the insurance is continued by payment of arrears of premiums with interest at ——— [here insert not more than six] per centum per annum.

Options at Maturity.—The insured, by written notice to the company at its home office, and with the written consent of the assignee and irrevocable beneficiary, if any, may elect to have the net sum payable under this policy paid either in cash or as follows:

1. By the payment of interest thereon at ——— per centum per annum, payable annually, to the payee under this policy at the end of each year during the life of the payee and by the payment upon the death of the payee of the said net sum and accrued interest to the executors, administrators, or assigns of the payee, unless otherwise directed in said notice.

2. By the payment of equal annual instalments for a specified number of years, the first instalment being payable immediately, in accordance with the following table for each \$1000.00 of said net sum.

3. By the payment of equal annual instalments payable at the beginning of each year for a fixed period of twenty years and for so many years longer as the payee shall survive in accordance with the following table for each \$1000.00 of said net sum.

Instalments payable under options (2) or (3) which shall not have been paid prior to the death of the payee shall be paid, unless otherwise directed in said notice, to the executors, administrators, or assigns of the payee.

If the insured shall not have directed otherwise the beneficiary may, after the death of the insured, by like written notice, and with the written consent of the assignee, if any, select either of the above options.

Unless otherwise specified by the insured the payee may on any interest date receive the amount yet due under option (1), and may at any time receive the commuted value of payments yet to be made, computed upon the same basis as option (2) in the following table, provided that no such commutation will be made under (3) except after the death of the payee occurring within the aforesaid twenty years.

TABLE OF INSTALMENTS FOR EACH \$1,000

Number of Annual Instalments	Amount of Each Instalment	Age of Payee When Policy Becomes Payable	Amount of Each Instalment
.....	\$.....	\$.....
.....	\$.....	\$.....
.....	\$.....	\$.....
.....	\$.....	\$.....

(Etc.)

Agents are not authorized to modify this policy or to extend the time for paying a premium.

In witness whereof, etc.

For misrepresentation, see § 373.

For duty to disclose facts, see § 388.

For warranties, see §§ 222, 2580 and 2589.

For specific performance of contracts for insurance, see § 3344.

For the validity of arbitration clauses, see §§ 721 et seq. and 2613 et seq.

For the validity of provisions requiring notice as a condition precedent, see §§ 732 et seq. and 2609 et seq.

For the validity of provisions forbidding action for a certain time after loss, see § 739.

For the necessity of insurable interest, see §§ 847 et seq.

For the effect of war, see §§ 2744 et seq.

§ 3871. Standard life insurance—Endowment.

THE X. Y. INSURANCE COMPANY OF ———

Amount \$——.

Age ———.

Premium \$——.

THE X. Y. INSURANCE CO. OF ———

In consideration of ——— dollars, receipt of which is hereby acknowledged, and of the payment of ——— [here insert amounts and times of payments of premiums] until ——— full years' premiums shall have been paid or until the prior death of the insured.

Promises to pay at the home office of the company in ———, to A. B., County of ———, State of ———, herein called the insured, on the ——— day of ——— if the insured be then living, or upon receipt at said home office of due proof of the prior death of the insured, to C. D. beneficiary ——— with

[insert "out," if so desired], right of revocation ——— dollars, less any indebtedness hereon to the company and any unpaid portion of the premium for the then current policy year.

Change of Beneficiary.—When the right of revocation has been reserved, or in case of the death of any beneficiary under either a revocable or irrevocable designation, the insured, subject to any existing assignment of the policy, may designate a new beneficiary with or without reserving right of revocation by filing written notice thereof at the home office of the company, accompanied by the policy for suitable endorsement thereon. If any beneficiary shall die before the insured, and the insured shall not have designated a new beneficiary, the interest of such beneficiary shall be payable to the insured ——— [insert "his" or "her"], executors, administrators or assigns.

Payment of Premiums.—The company will accept payment of premiums at other times than as stated above, as follows: ———.

Except as herein provided, the payment of a premium or instalment thereof, shall not maintain the policy in force beyond the date when the next premium or instalment thereof is payable.

All premiums are payable in advance at said home office, or to an agent of the company, upon delivery of a receipt signed by one or more of the following officers of the company ——— [insert titles of officers who may sign receipts], and countersigned by said agent.

A grace of one month, subject to an interest charge at the rate of ——— per centum per annum shall be granted for the payment of every premium after the first, during which month the insurance shall continue in force. If the insured shall die during the month of grace the overdue premium will be deducted from any amount payable hereon in any settlement hereunder.

Conditions.—(The policy may here provide for restrictions of liability by reason of travel, occupation, change of residence and suicide. These restrictions, except such as refer to military and naval service in time of war, must be applicable only to cases where the act of the insured provided against occurs within two years after the issuance of the policy.)

Incontestability.—This policy constitutes the entire contract between the parties, and shall be incontestable, from its date, except for non-payment of premiums and except as otherwise provided in this policy. All statements made by the insured shall in the absence of fraud be deemed representations and not warranties, and no such statement shall avoid this policy unless it is contained in a written application and a copy of such application shall be endorsed upon or attached to this policy when issued.

If the age of the insured has been understated, the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

Participation.—This policy shall not participate in the surplus of the company and beginning not later than the end of the ——— [insert first, second or third] policy year the company will annually determine and account for the portion of the divisible surplus accruing hereon.

Dividends.—Dividends at the option of the owner of this policy shall on the ——— day of ——— of each year ——— [here may be inserted "after the first policy year" or "after second policy year"], be either—

1. Paid in cash, or
2. Applied toward the payment of any premium or premiums, or
3. Applied to the purchase of paid-up additions to the policy, or
4. Left to accumulate to the credit of the policy with interest at ———
[here insert a rate not exceeding that used by the company in calculating its reserves] per centum per annum and payable at the maturity of the policy but withdrawable on any anniversary of the policy.

Unless the owner of this policy, shall elect otherwise within three months after mailing by the company of a written notice requiring such election, the dividends shall be paid in cash.

Loans.—After three full years' premiums have been paid the company, at any time while this policy is in force, will advance, on proper assignment of the policy and on the sole security thereof, at a rate of interest not greater than _____ per centum per annum, which interest, if not paid annually, shall be added to the principal and bear the same rate of interest, a sum equal to, or, at the option of the owner of the policy, less than, the reserve at the end of the current policy year on this policy and on any dividend additions thereto, computed according to the _____ [designate mortality table adopted by the company for computing reserves] mortality table, and interest at the rate of _____ [designate rate of interest adopted by the company for computing reserves] per centum per annum, less _____ [here may be inserted not more than two and one-half] per centum of the amount insured by this policy and of any dividend additions thereto. The company, however, will deduct from such loan value any existing indebtedness to the company on this policy and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year. Such loan may be deferred by the company for not exceeding six months after the application therefor is made. Failure to repay any such advance or to pay interest shall not avoid this policy unless the total indebtedness hereon to the company shall equal or exceed such loan value at time of such failure and until one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any.

No condition other than as herein provided shall be exacted as a prerequisite to any such advance.

Assignment.—No assignment of this policy shall be binding upon the company until it be filed with the company at its said home office. The company assumes no responsibility as to the validity of any assignment.

Options on Surrender or Lapse.—After this policy shall have been in force three full years, the owner, within one month after any default, may elect (a) to accept the value of this policy in cash, or (b) to have the insurance continued in force from date of default, without future participation and without the right to loans, for its face amount including any outstanding dividend additions, less any indebtedness to the company hereon, or (c) to purchase non-participating paid-up insurance, payable at the same time and on the same conditions as this policy. The cash value will be the reserve at the date of default on this policy and on any dividend additions thereto, computed according to the _____ [designate mortality table adopted by the company for computing reserves] mortality table and interest at the rate of _____ [designate rate of interest adopted by the company for computing reserves] per centum per annum less _____ [here may be inserted not more than two and one-half] per centum of the amount insured by this policy and of any dividend additions thereto, and less any existing indebtedness to the company on this policy. Payment of such cash value may be deferred by the company not exceeding six months after the application therefor is made.

The term for which the insurance will be continued or the amount of paid-up policy will be such as the cash value will purchase as a net single premium at the attained age of the insured, according to the _____ [designate the mortality table adopted by the company for computing reserves] mortality table and interest at the rate of _____ [designate rate of interest adopted by the company for computing reserves] per centum per annum. If the sum applicable to the purchase of temporary insurance shall be more than sufficient

to continue the insurance to the end of the endowment term named in this policy, the excess shall be used to purchase in the same manner non-participating paid-up pure endowment, payable at the end of the endowment term and on the same conditions. If the owner shall not, within one month from default, surrender this policy to the company at its home office for a cash surrender value or for paid-up insurance, as provided in option (a) and (c), the insurance will be continued as provided in option (b).

The figures in the following tables are computed in accordance with the above provisions and upon the assumption that there is no indebtedness on the policy, and that there are no outstanding dividend additions.

(At the option of the company the following may be here inserted: "The figures apply to a policy for \$1000. As this contract is for \$——, the loan, cash, paid-up insurance or pure endowment available in any year will be —— the amount stated in the table for that year.")

At End of Year	Cash or Loan Value	Paid-up Endowment Insurance	Continued Insurance			Pure Endowment
			Years	Months	Days	
2	\$.....	\$.....	\$.....
3	\$.....	\$.....	\$.....
4	\$.....	\$.....	\$.....

(Etc.)

Figures for later years will be furnished upon request.

Reinstatement.—In case of continued temporary insurance under the above provision this policy, upon evidence of insurability satisfactory to the company, may be reinstated within the first three years of the term for which the insurance is continued by payment of arrears of premiums with interest at —— [here insert not greater than six] per centum per annum.

Options at Maturity.—The insured, by written notice to the company at its home office, and with written consent of the assignee and irrevocable beneficiary, if any, may elect to have the net sum payable under this policy paid either in cash or as follows:

1. By the payment of interest thereon at —— per centum per annum payable annually, to the payee under this policy at the end of each year during the life of the payee and by the payment upon the death of the payee of the said net sum, and accrued interest to the executors, administrators or assigns of the payee, unless otherwise directed in said notice.

2. By the payment of equal annual instalments for a specified number of years, the first instalment being payable immediately, in accordance with the following table for each \$1000 of said net sum.

3. By the payment of equal annual instalments payable at the beginning of each year for a fixed period of twenty years and for so many years longer as the payee shall survive, in accordance with the following table for each \$1000 of said net sum.

Instalments payable under option (2) or (3) which shall not have been paid prior to the death of the payee shall be paid, unless otherwise directed in said notice, to the said executors, administrators or assigns of the payee.

If the insured shall not have directed otherwise the beneficiary may, after the death of the insured, by like written notice and with the written consent of the assignee, if any, select either of the above options.

Unless otherwise specified by the insured, the payee may, on any interest date, receive the amount yet due under option (1), and may at any time receive

the commuted value of payments yet to be made, computed upon the same basis as option (2), in the following table, provided that no such commutation will be made under (3), except after the death of the payee occurring within the aforesaid twenty years.

TABLE OF INSTALMENTS FOR EACH \$1,000

Option (2)		Option (3)	
Number of Annual Instalments	Amount of Each Instalment	Age of Payee When Policy Becomes Payable	Amount of Each Instalment
.....	\$.....	\$.....
.....	\$.....	\$.....
.....	\$.....	\$.....
.....	\$.....	\$.....

Agents are not authorized to modify this policy or to extend the time for paying the premium.
In witness whereof, etc.
See references under § 3870.

§ 3872. Standard life insurance policy—Endowment—Fixed survivorship annuity.

Age _____.
Amount \$_____. Premium \$_____.

THE X. Y. COMPANY OF _____ [name of State]

In consideration of _____ dollars, receipt of which is hereby acknowledged, and of the payment of _____ [here insert amounts and times of payments of premiums] until _____ full years' premiums shall have been paid or until the prior death of the insured.

Promises to pay at its home office in _____ dollars in twenty equal instalments of \$_____ to the insured, the first instalment to be payable on the _____ day of _____, 19—. If the insured shall die before receiving all the twenty instalments herein provided for, the remainder of such twenty instalments shall be payable as they fall due to _____ (herein called the beneficiary), _____[insert "his" or "her"] executors, administrators, or assigns, with _____ [insert "out" if so desired] right of révocation, if _____ [insert "he" or "she"] survives the insured, otherwise to the executors, administrators or assigns of the insured.

Should the insured die before _____ [insert date of maturity], this policy shall be payable to the beneficiary _____ [insert "his" or "her"] executors, administrators or assigns, if _____ [insert "he" or "she"] survives the insured, otherwise to the executors, administrators or assigns of the insured (the first instalment being payable immediately upon receipt of due proof of the death of the insured). Any indebtedness to the company on this policy, together with the balance, if any, of the then current years' premium, will be deducted from the amounts first payable under this contract.

Should the insured or beneficiary live to receive the twenty instalments payable as above provided, the company, beginning one year after the date when the twentieth instalment payable hereunder shall fall due, will pay the sum of \$_____ annually to the insured, or, in the event of the death of the

insured, to the beneficiary, the said annual payment to be due and payable so long as either the insured or beneficiary is living.

Change of Beneficiary.—When the right of revocation has been reserved, or in case of the death of any beneficiary under either a revocable or irrevocable designation, the insured, subject to any existing assignment of the policy, may designate a new beneficiary with or without reserving right of revocation by filing written notice thereof at the home office of the company, accompanied by the policy for suitable endorsement thereon. If any beneficiary shall die before the insured and the insured shall not have designated a new beneficiary, the interest of such beneficiary shall be payable to the insured — [insert “his” or “her”] executors, administrators or assigns. If a new beneficiary shall be designated only twenty annual instalments will be payable under this policy, and future — [if necessary, insert “semi” or “quarter”] annual premiums will be reduced to — dollars each.

Payment of Premiums.—The company will accept payment of premiums at other times than as stated above, as follows: —.

Upon return of this policy to the company, accompanied by evidence satisfactory to the company of the death of the beneficiary, the company will reduce the future — [here insert “annual,” “semi-annual” or “quarterly”] premiums to \$ — each.

Except as herein provided the payment of a premium or instalment thereof shall not maintain the policy in force beyond the date when the next premium or instalment thereof is payable.

All premiums are payable in advance at said home office, or to an agent of the company upon delivery of a receipt signed by one or more of the following officers of the company — [insert titles of officers who may sign receipts] and countersigned by said agent.

A grace of one month subject to an interest charge at the rate of — per centum shall be granted for the payment of every premium after the first, during which month the insurance shall continue in force. If the insured shall die during the month of grace the overdue premium will be deducted from any amount payable hereon in any settlement hereunder.

Conditions.—(The policy may here provide for restrictions of liability by reason of travel, occupation, change of residence and suicide. These restrictions, except such as refer to military and naval service in time of war, must be applicable only to cases where the act of the insured provided against occurs within two years after the issuance of the policy.)

Incontestability.—This policy constitutes the entire contract between the parties and shall be incontestable from its date, except for non-payment of premiums and except as otherwise provided in this policy. All statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties and no such statement shall avoid this policy unless it is contained in a written application and a copy of such application shall be endorsed upon or attached to this policy when issued.

If the age of the insured has been understated, or if the age of the beneficiary has been overstated the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

Participation.—This policy shall participate in the surplus of the company and beginning not later than the end of the — [insert first, second or third] policy year the company will annually determine and account for the portion of divisible surplus accruing hereon.

Dividends.—Dividends at the option of the owner of this policy shall on the — day of — of each year — [here may be inserted “after the first policy year” or “after the second policy year”] be either—

1. Paid in cash, or
2. Applied toward the payment of any premium or premiums, or
3. Applied to the purchase of paid-up additions to the policy, payable in twenty annual instalments at the same times as the original amount insured under this policy is payable. The payment of such twenty instalments shall discharge the company from all liability on account of such dividend additions, or
4. Left to accumulate to the credit of the policy with interest at ——— [here insert a rate not exceeding that used by the company in calculating its reserves] per centum per annum and payable at the maturity of the policy, but withdrawable on any anniversary of the policy.

Unless the owner of this policy shall elect otherwise, within three months after mailing by the company of a written notice requiring such election, the dividends shall be paid in cash.

Loans.—After three full years' premiums have been paid, the company at any time, while this policy is in force, will advance, on the proper assignment of this policy and on the sole security thereof, at a rate of interest not greater than ——— per centum per annum, which interest, if not paid annually, shall be added to the principal and bear the same rate of interest, a sum equal to, or, at the option of the owner of the policy, less than the reserve of the end of the current policy year required to provide for the twenty instalments payable under this policy and for any dividend additions thereto and no more, computed according to the ——— [designate mortality table adopted by the company for computing reserves] mortality table and interest at the rate of ——— [designate rate of interest adopted by the company for computing reserves] per centum per annum, less ——— [here may be inserted not more than two and one-half] per centum of the amount insured by this policy, and of any dividend addition thereto. The company, however, will deduct from such loan value any existing indebtedness to the company on the policy and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year. Such loan may be deferred by the company for not exceeding six months after the application therefor is made. Failure to repay any such advance or to pay interest shall not avoid this policy unless the total indebtedness hereon to the company shall equal or exceed such loan value at the time of such failure, and until one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any. No condition other than as herein provided shall be exacted as a prerequisite to any such advance.

Assignment.—No assignment of this policy shall be binding upon the company until it be filed with the company at its said home office. The company assumes no responsibility as to the validity of any assignment.

Options on Surrender or Lapse.—After this policy shall have been in force three full years, the owner, within one month after any default, may elect:

1. To accept the value of this policy in cash, or
2. To have the insurance continued in force from date of default, without future participation and without the right to loans, for its face amount, including any outstanding dividend additions, less any indebtedness to the company hereon, or
3. To purchase non-participating paid-up insurance, payable, except as hereinafter provided, at the same times and on the same conditions as this policy. The cash value will be the reserve at the date of default required to provide for the twenty instalments payable under this policy and for any dividend additions thereto,

computed according to the ——— [designate mortality table adopted by the company for computing reserves] mortality table and interest at the rate of ——— [designate rate of interest adopted by the company for computing reserves] per centum per annum, less ——— [here may be inserted not more than two and one-half] per centum of the amount insured by this policy and of any dividend additions thereto, and less any existing indebtedness to the company on this policy. Payment of such cash value may be deferred by the company for not exceeding six months after the application therefor is made. The term for which the insurance will be continued, or the amount of the paid-up policy will be such as the cash value will purchase as a net single premium at the attained age of the insured according to the ——— [designate the mortality table adopted by the company for computing reserves] mortality table and interest at the rate of ——— [designate rate of interest adopted by the company for computing reserves] per centum per annum. If the sum applicable to the purchase of temporary insurance shall be more than sufficient to continue the insurance to the end of the endowment term named in this policy, the excess shall be used to purchase in the same manner non-participating, paid-up pure endowment, payable at the end of the endowment terms and on the same conditions. If the owner shall not, within one month from default, surrender this policy to the company, at its home office for cash surrender value or for paid-up insurance, as provided in options (1) and (3), the insurance will be continued as provided in option (2). The paid-up or continued temporary and pure endowment insurance will be payable in twenty equal instalments and the payment of twenty annual instalments under either option shall discharge the company from all liability under this policy.

The figures in the following table are computed in accordance with the above provision and upon the assumption that there is no indebtedness on the policy and that there are no outstanding dividend additions.

(At the option of the company the following may be here inserted: "The figures apply to a policy for \$1,000.00. As this contract is for ——— dollars the loan, cash, paid-up insurance or pure endowment available in any year will be ——— the amount stated in the table for that year.")

At End of year	Cash or Loan Value	Paid-up Life Insurance	Continued Insurance		
			Years	Months	Days
3	\$.....	\$.....
4	\$.....	\$.....
5	\$.....	\$.....

(Etc.)

Figures for later years will be furnished upon request.

Reinstatement.—In case of continued temporary insurance under the above provisions, this policy, upon evidence of insurability satisfactory to the company may be reinstated within the first three years of the term for which the insurance is continued by payment of arrears of premiums, with interest at ——— [here insert not greater than six] per centum per annum.

Agents are not authorized to modify this policy or to extend the time for paying a premium.

In witness whereof, etc.

See references under § 3870.

§ 3873. Standard life insurance policy—"Ordinary" or "limited payment" life—Fixed survivorship annuity.

Amount \$——.

Age ——.

Premiums \$——.

THE X. Y. INSURANCE COMPANY OF —— [name of State]

In consideration of —— dollars, receipt of which is hereby acknowledged, and of the payment of —— [here insert amounts and times of payments of premiums] until —— [insert "the death of the insured" in ordinary life, and "—— full years' premiums shall have been paid or until the prior death of the insured" in limited payment life].

Promises to pay at its home office in ——, —— dollars, in twenty equal annual instalments of \$——, to C. D. (herein called the beneficiary), —— [insert "his" or "her"] executors, administrators or assigns, with—— [insert "out" if so desired] right of revocation, if —— [insert "he" or "she"] survives the insured, otherwise to the executors, administrators or assigns of the insured, the first instalment being payable immediately upon receipt of due proof of the death of the insured, and indebtedness to the company on this policy, together with the balance, if any, of the then current year's premium, being deducted from, the amounts first payable under this contract.

Should the beneficiary live to receive the twenty instalments payable to —— [insert "him" or "her"] as above provided, the company will pay —— [insert "him" or "her"] annually, during the remainder of —— [insert "his" or "her"] life, the sum of \$——, beginning one year after the date when the twentieth instalment payable hereunder shall fall due.

Change of Beneficiary.—When the right of revocation has been reserved, or in case of the death of any beneficiary under either a revocable or irrevocable designation, the insured, subject to any existing assignment of the policy, may designate a new beneficiary with or without reserving the right of revocation by filing written notice thereof at the home office of the company, accompanied by the policy for suitable endorsement thereon. If any beneficiary shall die before the insured and the insured shall not have designated a new beneficiary, the interest of such beneficiary shall be payable to the insured, —— [insert "his" or "her"] executors, administrators or assigns. If a new beneficiary shall be designated only twenty annual instalments will be payable under this policy, and further —— [if necessary, insert "semi" or "quarter"] annual premiums will be reduced to —— dollars each.

Upon return of this policy to the company, accompanied by evidence satisfactory to the company of the death of the beneficiary, the company will reduce the future —— [here insert "annual," "semi-annual" or "quarterly" premiums to \$—— each.

Except as herein provided the payment of a premium or instalment thereof shall not maintain the policy in force beyond the date when the next premium or instalment thereof is payable.

All premiums are payable in advance at said home office, or to an agent of the company upon delivery of a receipt signed by one or more of the following officers of the company —— [insert titles of officers who may sign receipts], and countersigned by said agent.

A grace of one month subject to an interest charge at the rate of ——— per centum per annum shall be granted for the payment of every premium after the first, during which month the insurance shall continue in force. If the insured shall die during the month of grace, the overdue premium will be deducted from any amount payable hereon in any settlement hereunder.

Conditions.—(The policy may here provide for restrictions of liability by reason of travel, occupation, change of residence and suicide. These restrictions, except such as refer to military and naval service in time of war, must be applicable only to cases where the act of the insured provided against occurs within two years after the issuance of the policy.)

Incontestability.—This policy constitutes the entire contract between the parties and shall be incontestable from its date, except for non-payment of premiums and except as otherwise provided in this policy. All statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties, and no such statement shall avoid this policy unless it is contained in a written application and a copy of such application shall be endorsed upon or attached to this policy when issued.

If the age of the insured has been understated, or if the age of the beneficiary has been overstated the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

Participation.—This policy shall participate in the surplus of the company and beginning not later than the end of the ——— [insert first, second or third] policy year the company will annually determine and account for the portion of divisible surplus accruing hereon.

Dividends.—Dividends at the option of the owner of this policy shall, on the ——— day of ——— of each year ——— [here may be inserted "after the first policy year" or "after the second policy year"] be either:

1. Paid in cash, or
2. Applied toward the payment of any premium or premiums, or
3. Applied to the purchase of paid-up additions to the policy, payable in twenty annual instalments at the same times as the original amount insured under this policy is payable. The payment of such twenty instalments shall discharge the company from all liability on account of such dividend additions, or
4. Left to accumulate to the credit of the policy with interest at ——— [here insert a rate not exceeding that used by the company in calculating its reserves] per centum per annum and payable at the maturity of the policy, but withdrawable on any anniversary of the policy.

Unless the owner of this policy shall elect otherwise, within three months after mailing by the company of a written notice requiring such election, the dividends shall be paid in cash.

Loans.—After three full years' premiums have been paid, the company at any time, while this policy is in force, will advance, on the proper assignment of this policy and on the sole security thereof, at a rate of interest not greater than ——— per centum per annum, which interest, if not paid annually, shall be added to the principal and bear the same rate of interest, a sum equal to, or, at the option of the owner of the policy, less than, the reserve at the end of the current policy year required to provide for the twenty instalments payable under this policy and for any dividend additions thereto and no more, computed according to the ——— [designate mortality table adopted by the company for computing reserves] mortality table and interest at the rate of ——— [designate rate of interest adopted by the company for computing re-

serves] per centum per annum, less — [here may be inserted not more than two and one-half] per centum of the amount insured by this policy, and of any dividend additions thereto. The company, however, will deduct from such loan value any existing indebtedness to the company on the policy and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year. Such loan may be deferred by the company for not exceeding six months after the application therefor is made. Failure to repay any such advance or to pay interest shall not avoid this policy unless the total indebtedness hereon to the company shall equal or exceed such loan value at the time of such failure, and until one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any. No condition other than as herein provided shall be exacted as a prerequisite to any such advance.

Assignment.—No assignment of this policy shall be binding upon the company until it be filed with the company at its said home office. The company assumes no responsibility as to the validity of any assignment.

Options on Surrender or Lapse.—After this policy shall have been in force three full years, the owner, within one month after any default, may elect:

1. To accept the value of this policy in cash, or
2. To have the insurance continued in force from date of default, without future participation and without the right to loans, for its face amount, including any outstanding dividend additions, less any indebtedness to the company hereon, or
3. To purchase non-participating paid-up insurance, payable, except as hereinafter provided, at the same time and on the same conditions as this policy. The cash value will be the reserve at the date of default required to provide for the twenty instalments payable under this policy and for any dividend additions thereto, computed according to the — [designate mortality table adopted by the company for computing reserves] mortality table and interest at the rate of — [designate rate of interest adopted by the company for computing reserves] per centum per annum, less — [here may be inserted not more than two and one-half] per centum of the amount insured by this policy and of any dividend additions thereto, and less any existing indebtedness to the company on this policy. Payment of such cash value may be deferred by the company for not exceeding six months after the application therefor is made. The term for which the insurance will be continued, or the amount of the paid-up policy will be such as the cash value will purchase as a net single premium at the attained age of the insured according to the — [designate the mortality table adopted by the company for computing reserves] mortality table and interest at the rate of — [designate rate of interest adopted by the company for computing reserves] per centum per annum. If the owner shall not, within one month from default, surrender this policy to the company, at its home office for cash surrender value or paid-up insurance, as provided in options (1) and (3), the insurance will be continued as provided in option (2). The paid-up or continued temporary insurance will be payable in twenty equal instalments, and the payment of twenty instalments under either option shall discharge the company from all liability under this policy.

The figures in the following table are computed in accordance with the above provision and upon the assumption that there is no indebtedness upon the policy and that there are no outstanding dividend additions.

(At the option of the company the following may be here inserted: "The figures apply to a policy for \$1,000.00. As this contract is for _____ dollars, the loan, cash or paid-up insurance available in any year will be _____ the amount stated in the table for that year.")

At End of Year	Cash or Loan Value	Paid-up Life Insurance	Continued Insurance		
			Years	Months	Days
3	\$.....	\$.....
4	\$.....	\$.....
5	\$.....	\$.....

(Etc.)

Figures for later years will be furnished upon request.

Reinstatement.—In case of continued temporary insurance under the above provisions, this policy, upon evidence of insurability satisfactory to the company, may be reinstated within the first three years of the term for which the insurance is continued by payment of arrears of premium, with interest at _____ [here insert not greater than six] per centum per annum.

Agents are not authorized to modify this policy or to extend the time for paying a premium.

In witness whereof, etc.

See references under § 3870

§ 3874. Standard life insurance policy—Term.

Amount \$_____.

Age _____.

Premium \$_____.

THE X. Y. INSURANCE COMPANY OF _____ [name of State]

In consideration of _____ dollars, receipt of which is hereby acknowledged, and of the payment of _____ [here insert amounts and times of payments of premiums] until _____ full years' premiums shall have been paid, or until the prior death of the insured.

Promises to pay upon receipt at the home office of the company in _____ of due proof of the death of A. B., of _____, of County of _____, State of _____, herein called the insured, within _____ years from the date hereof _____ dollars, less any indebtedness hereon to the company, and any unpaid portion of the premium for the then current policy year, at said home office, to C. D., beneficiary, with _____ [insert "out" if so desired] right of revocation.

Change of Beneficiary.—When the right of revocation has been reserved, or in case of the death of any beneficiary under either a revocable or irrevocable designation, the insured, subject to any existing assignment of the policy, may designate a new beneficiary, with or without reserving right of revocation, by filing written notice thereof at the home office of the company, accompanied by the policy for suitable endorsement thereon. If any beneficiary shall die before the insured, and the insured shall not have designated a new beneficiary, the interest of such beneficiary shall be payable to the insured, _____ [insert "his" or "her"] executors, administrators or assigns.

Payment of Premiums.—The company will accept payment of premiums at other times than that as stated above, as follows: _____ [insert special provisions, if any].

Except as herein provided, the payment of a premium or instalment thereof shall not maintain the policy in force beyond the date when the next premium or instalment thereof is payable.

All premiums are payable in advance at said home office or to an agent of the company upon delivery of a receipt signed by one or more of the following officers of the company — [insert titles of officers who may sign receipts] and countersigned by such agents.

A grace of one month, subject to an interest charge at the rate of — per centum per annum, shall be granted for the payment of every premium after the first, during which month the insurance shall continue in force. If the insured shall die during the month of grace, the overdue premium will be deducted from any amount payable hereon in any settlement hereunder.

Conditions.—(The policy may here provide for restrictions of liability by reason of travel, occupation, change of residence and suicide. These restrictions, except such as refer to military and naval service in time of war, must be applicable only to such cases where the act of the insured provided against occurs within two years after the issuance of the policy.)

Incontestability.—This policy constitutes the entire contract between the parties and shall be incontestable from its date, except for non-payment of premiums and except as otherwise provided in this policy. All statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties, and no such statement shall avoid this policy unless it is contained in a written application and a copy of such application shall be endorsed upon or attached to this policy when issued.

If the age of the insured has been understated, the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

Participation.—This policy shall participate in the surplus of the company, and beginning not later than the end of the — [insert first, second or third] policy year the company will annually determine and account for the portion of the divisible surplus accruing hereon.

Dividends.—Dividends at the option of the owner of this policy shall, on the — day of — of each year — [here may be inserted "after the first policy year" or "after the second policy year"), be either—

1. Paid in cash, or
2. Applied toward the payment of any premium or premiums, or
(The policy, at the option of the company, may here provide for a further option as follows):
3. Left to accumulate to the credit of the policy, with interest at — [here insert a rate not exceeding that used by the company in calculating its reserves] per centum per annum and payable at the maturity of the policy, or at the expiration of the term, but withdrawable on any anniversary of the policy.

Unless the owner of this policy shall elect otherwise, within three months after the mailing by the company of a written notice requiring such election, the dividends shall be paid in cash.

Assignment.—No assignment of this policy shall be binding upon the company until it be filed with the company at its said home office. The company assumes no responsibility as to the validity of any assignment.

(If the term of this policy is for more than twenty years, the company shall provide for continuance of insurance on surrender or lapse in the following form):

Continuance of Insurance on Lapse.—In event of default in premium payments after this policy shall have been in force three full years, the reserve hereon, according to the ——— [designate the mortality table adopted by the company for computing reserves] mortality table, and interest at the rate of ——— [designate rate of interest adopted by the company for computing reserves] per centum per annum, less ——— [here may be inserted not more than two and one-half] per centum of the amount insured by the policy, will be applied to the purchase of non-participating continued temporary insurance for the face amount of this policy at net single premium rates at the attained age of the insured, according to the same table of mortality and rate of interest.

TABLE OF CONTINUED INSURANCE

At End of Years	Continued Insurance		
	Years	Months	Days
3
4
5

(Etc.)

Figures for later years will be furnished upon request.

(If the term policy is for more than twenty years, the company shall provide for reinstatement in the following form):

Reinstatement.—Upon evidence of insurability satisfactory to the company, this policy may be reinstated within the first three years of the term for which the insurance is continued by payment of arrears of premiums, with interest at ——— [here insert not greater than six] per centum per annum.

Options at Maturity.—The insured, by written notice to the company at its home office and with written consent of the assignee and irrevocable beneficiary, if any, may elect to have the net sum payable under this policy paid either in cash or as follows:

1. By the payment of interest thereon at ——— per centum per annum, payable annually, to the payee under this policy at the end of each year during the life of the payee, and by the payment upon the death of the payee of the said net sum and accrued interest to the executors, administrators or assigns of the payee, unless otherwise directed in said notice.
2. By the payment of equal annual instalments for a specified number of years, the first instalment being payable immediately, in accordance with the following table for each \$1,000 of said net sum.
3. By the payment of equal annual instalments, payable at the beginning of each year, for a fixed period of twenty years, and for so many years longer as the payee shall survive, in accordance with the following table for each \$1,000 of said net sum.

Instalments payable under options (2) or (3), which shall not have been paid prior to the death of the payee shall be paid, unless otherwise directed in said notice, to the executors, administrators or assigns of the payee.

If the insured shall not have directed otherwise, the beneficiary may, after the death of the insured, by like written notice, and with written consent of the assignee, if any, select either of the above options.

Unless otherwise specified by the insured, the payee may on any interest day receive the amount yet due under option (1), and may at any time receive the commuted value of payments yet to be made, computed on the same basis as option (2) in the following table, provided, that no such commutation will be made under (3), except after the death of the payee occurring within the aforesaid twenty years.

TABLE OF INSTALMENTS FOR EACH \$1,000

Option (2)		Option (3)	
Number of Annual Instalments	Amount of Each Instalment	Age of Payee When Policy Becomes Payable	Amount of Each Instalment

Agents are not authorized to modify this policy or to extend the time for paying a premium.

In witness whereof, etc.

See references under § 3870.

§ 3875. Standard life insurance policy—Term, with right to renew and change.

Amount \$——.

Age ——.

Premium \$——.

THE X. Y. INSURANCE COMPANY OF —— [name of State]

In consideration of —— dollars, receipt of which is hereby acknowledged, and of the payment of —— [here insert amounts and times of payments of premiums] until —— full years' premiums shall have been paid, or until the prior death of the insured.

Promises to pay upon receipt at the home office of the company in —— of due proof of the death of A. B., of —— of County of ——, State of ——, herein called the insured, within —— years from the date hereof —— dollars, less any indebtedness hereon to the company, and any unpaid portion of the premium for the then current policy year, at said home office, to C. D., beneficiary, with —— [insert "out" if so desired] right of revocation.

Change of Beneficiary.—When the right of revocation has been reserved, or in case of the death of any beneficiary under either a revocable or irrevocable designation, the insured, subject to any existing assignment of the policy, may designate a new beneficiary, with or without reserving right of revocation, by filing written notice thereof at the home office of the company, accompanied by the policy for suitable endorsement thereon. If any beneficiary shall die before the insured, and the insured shall not have designated a new beneficiary, the interest of such beneficiary shall be payable to the insured, —— [insert "his" or "her"] executors, administrators or assigns.

Payment of Premiums.—The company will accept payment of premiums at other times than that as stated above, as follows: —— [insert special provisions, if any].

Except as herein provided, the payment of a premium or instalment thereof shall not maintain the policy in force beyond the date when the next premium or instalment thereof is payable.

All premiums are payable in advance at said home office, or to an agent of the company upon delivery of a receipt signed by one or more of the following officers of the company — [insert titles of officers who may sign receipts], and countersigned by such agents.

A grace of one month, subject to an interest charge at the rate of — per centum per annum, shall be granted for the payment of every premium after the first, during which month the insurance shall continue in force. If the insured shall die during the month of grace the overdue premium will be deducted from any amount payable hereon in any settlement hereunder.

Conditions.—(The policy may here provide for restrictions of liability by reason of travel, occupation, change of residence and suicide. These restrictions, except such as refer to military and naval service in time of war, must be applicable only to such cases where the act of the insured provided against occurs within two years after the issuance of the policy.)

Incontestability.—This policy constitutes the entire contract between the parties and shall be incontestable from its date, except for non-payment of premiums and except as otherwise provided in this policy. All statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties, and no such statement shall avoid this policy unless it is contained in a written application, and a copy of such application shall be endorsed upon or attached to this policy when issued.

If the age of the insured has been understated, the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

Participation.—This policy shall participate in the surplus of the company, and beginning not later than the end of the — [insert first, second or third] policy year, the company will annually determine and account for the portion of the divisible surplus accruing hereon.

Dividends.—Dividends at the option of the owner of this policy shall, on the — day of — of each year — [here may be inserted "after the first policy year" or "after the second policy year"], be either—

1. Paid in cash, or
2. Applied toward the payment of any premium or premiums, or
(The policy, at the option of the company, may here provide for a further option as follows):
3. Left to accumulate to the credit of the policy, with interest at — [here insert a rate not exceeding that used by the company in calculating its reserves] per centum per annum and payable at the maturity of the policy, or at the expiration of the term, but withdrawable on any anniversary of the policy.

Unless the owner of this policy shall elect otherwise, within three months after the mailing by the company of a written notice requiring such election, the dividends shall be paid in cash.

Privilege of Renewal.—The owner of this policy, if the insured be not over the age of sixty-five years, may renew this policy for further terms of — years each by written notice to the company at its said home office, accompanied by this policy for suitable endorsement on or before the expiration of the insurance hereunder, and by paying the premiums to be fixed by the age on the birthday nearest to the date of such renewal in accordance with the following table for each one thousand dollars of insurance; if the insured shall be over the age of sixty-five years, this policy may, upon similar notice, be surrendered for an ordinary life policy, which shall require premiums during life in accordance with the following table for each one thousand dollars of insurance.

TABLE OF PREMIUMS FOR RENEWALS

Attained Age	Years' Term Premium Payable in Advance for Each \$1,000	Attained Age	Ordinary Life Premium Payable in Advance for Each \$1,000

Privilege to Change to Other Forms of Policies.—The owner of this policy may at any time within the first — years exchange this policy for a participating policy for the same amount or any less amount upon the ordinary life, limited payment life or endowment plan upon any anniversary of the policy or within the month of grace by surrendering the policy to the company at said home office with written notice of the election, and by paying the premium, to be fixed by the age on the birthday nearest to the date of such exchange, according to the rates of the company then in force.

Assignment.—No assignment of this policy shall be binding upon the company, until it be filed with the company at its said home office. The company assumes no responsibility as to the validity of any assignment.

(If the term of this policy is for more than twenty years, the company shall provide for continuance of insurance on surrender or lapse in the following form):

Continuance of Insurance on Lapse.—In event of default in premium payments after this policy shall have been in force three full years, the reserve hereon, according to the — [designate the mortality table adopted by the company for computing reserves] mortality table, and interest at the rate of — [designate rate of interest adopted by the company for computing reserves] per centum per annum, less — [here may be inserted not more than two and one-half] per centum of the amount insured by the policy, will be applied to the purchase of non-participating continued temporary insurance for the face amount of this policy at net single premium rates at the attained age of the insured, according to the same table of mortality and rate of interest.

TABLE OF CONTINUED INSURANCE

At End of Years	Continued Insurance		
	Years	Months	Days
3
4
5

(Etc.)

Figures for later years will be furnished upon request.

(If the term policy is for more than twenty years, the company shall provide for reinstatement in the following form):

Reinstatement.—Upon evidence of insurability satisfactory to the company, this policy may be reinstated within the first three years of the term for which the insurance is continued by payment of arrears of premiums, with interest at — [here insert not greater than six] per centum per annum.

Options at Maturity.—The insured, by written notice to the company at its home office and with written consent of the assignee and irrevocable beneficiary, if any, may elect to have the net sum payable under this policy paid either in cash or as follows:

1. By the payment of interest thereon at ——— per centum per annum, payable annually, to the payee under this policy at the end of each year during the life of the payee, and by the payment upon the death of the payee of the said net sum and accrued interest to the executors, administrators or assigns of the payee, unless otherwise directed in said notice.
2. By the payment of equal annual instalments for a specified number of years, the first instalment being payable immediately, in accordance with the following table for each \$1,000 of said net sum.
3. By the payment of equal annual instalments, payable at the beginning of each year, for a fixed period of twenty years, and for so many years longer as the payee shall survive, in accordance with the following table for each \$1,000 of said net sum.

Instalments payable under options (2) or (3), which shall not have been paid prior to the death of the payee shall be paid, unless otherwise directed in said notice, to the executors, administrators or assigns of the payee.

If the insured shall not have directed otherwise, the beneficiary may, after the death of the insured, by like written notice, and with written consent of the assignee, if any, select either of the above options.

Unless otherwise specified by the insured, the payee may on any interest day receive the amount yet due under option (1), and may at any time receive the commuted value of payments yet to be made, computed on the same basis as option (2) in the following table, provided, that no such commutation will be made under (3), except after the death of the payee occurring within the aforesaid twenty years.

TABLE OF INSTALMENTS FOR EACH \$1,000

Option (2)		Option (3)	
Number of Annual Instalments	Amount of Each Instalment	Age of Payee When Policy Becomes Payable	Amount of Each Instalment

Agents are not authorized to modify this policy or to extend the time for paying a premium.

In witness whereof, etc.

See references under § 3870.

§ 3876. Life insurance.

No. ———

Age ———.

The X. Y. Insurance Company, in consideration of the payment of ——— dollars, the receipt whereof is hereby acknowledged, and of the ——— [insert period for payment] payment of a like sum to the said Company, on or before the ——— day of ——— in every year during the lifetime of A. B., of ——— (hereinafter called the Insured), promises, upon receipt of due proof of the death of the Insured, to pay at its Home Office unto C. D., beneficiary, the sum of ——— dollars, less any unpaid premium or premiums for the then current policy year and any other indebtedness to the Company on account of this Policy.

Subject to the rights of any assignee, the Insured (1) may designate one or more Beneficiaries if none be named herein, either with or without reservation of the right to revoke such designation; and (2) may designate one or more Contingent Beneficiaries whose interest shall be as expressed in, or by endorsement of the Company on, this Policy; and (3) may change any Beneficiary not irrevocably designated; and (4) may change any Contingent Beneficiary. If there be more than one Beneficiary the interest of any deceased Beneficiary shall pass to the survivor or survivors unless otherwise directed by the Insured. If no Beneficiary or Contingent Beneficiary survive the Insured the proceeds of this Policy shall be payable to the executors, administrators or assigns of the Insured. No such designation, revocation, change or direction shall be effective unless duly made in writing and filed at the Home Office of the Company (accompanied by this Policy for suitable endorsement) prior to or at the time this Policy shall become payable.

No assignment of this Policy shall be binding upon the Company until it be filed with the Company at its Home Office. The Company assumes no responsibility as to the validity or effect of any assignment. Satisfactory proof of assignee's interest must be produced on making claim.

This Policy is issued and accepted by the parties in interest subject to the provisions stated on the second and third pages hereof which are a part of this contract.

In witness whereof, etc.

_____,
Secretary,

_____,
President.

Whole Life Policy; Premiums Payable for Life; Dividends Payable Annually;
Y. 1.

PROVISIONS

Policy and Application—Entire Contract. 1. This Policy and the application hereof (a copy of which is attached hereto) constitute the entire contract between the parties. All statements made by the Insured shall, in the absence of fraud, be deemed representations and not warranties, and no statement of the Insured shall avoid this Policy or be used in defense of a claim hereunder unless it is contained in the said application and a copy thereof is attached to this Policy when issued.

Agents. 2. No agent of the Company is authorized to waive forfeitures or to make, alter or discharge contracts, or to extend the time for payment of premium.

Reserve. 3. The reserve on this Policy and any dividend additions hereto shall be in accordance with the American Experience Table of Mortality with interest at three per cent.

Suicide and Aviation. 4. If within one year from the date hereof the Insured shall die in consequence of having engaged in an aerial flight, or if he shall, whether sane or insane, die by his own hand, the liability of the Company shall be limited to the amount of the reserve hereon.

Incontestability. 5. This Policy shall be incontestable after one year from its date of issue except for non-payment of premium. If the age of the Insured has been misstated, and the error shall not have been adjusted during his lifetime, the amount payable shall be such as the premium paid would have purchased at the correct age.

Premium Payments. 6. The insurance under this Policy is based upon annual premiums payable in advance, but payments may be made semi-annually or quarterly, in advance, at the premium rates now in use by the Company. Change may be made on any anniversary of the Policy. No premium after the first will be considered paid (except it be duly charged as a premium loan) unless a receipt, signed by the President or Secretary of the Company and countersigned by an

agent authorized to receive such premium, shall have been given therefor. Upon default in the payment of any premium this Policy shall cease and determine except as hereinafter provided.

Grace. 7. A grace of thirty-one days, during which time the insurance will remain in full force, shall be allowed for the payment of every premium except the first.

Reinstatement. 8. This Policy may be reinstated at any time within five years succeeding default in premium payment, upon evidence satisfactory to the Company of the insurability of the Insured and payment of all premium arrears with interest at the rate of five per cent. per annum, and the payment or reinstatement of any indebtedness which existed at the time of such default, with interest from that date.

Dividend Options. 9. This Policy while in force except under the extended term insurance provision shall participate in the surplus of the Company. The Company will annually determine and account for the divisible surplus accruing hereon until all such surplus found to have arisen from this Policy shall have been returned. Any such dividend of surplus may at the option of the Insured: (a) be withdrawn in cash; or (b) be applied towards the payment of premium hereon; or (c) be applied to the purchase of a participating paid-up addition to this Policy; or (d) be left to accumulate, subject to withdrawal, at such a rate of interest not less than three per cent., credited annually, as may be determined by the Company. Unless the Insured shall otherwise elect in writing dividends will be paid in cash.

10. Non-forfeiture, Surrender and Loan Provisions. The following provisions shall become operative only after payment of premiums for two full years and no request, revocation or change in connection with such provisions shall be effective until duly made in writing and filed at the Home Office of the Company:

Basis of Surrender Values. 10a. The cash surrender value of this Policy at any time prior to default in premium payment or within the grace period, shall be the then reserve on the Policy and any dividend additions then existing, less any indebtedness to the Company on account hereof, and less also a surrender charge which during the fifth or any previous policy year shall be at the rate of ten dollars per \$1,000 of insurance and thereafter shall diminish annually at the rate of one dollar per \$1,000 of insurance.

Premium Loans. 10b. Upon request of the Insured, and Assigns if any, made prior to default in premium payment and remaining unrevoked, the premiums thereafter falling due and not paid will be charged as a premium loan with interest at the rate of six per cent. per annum, provided the then cash surrender value be sufficient to cover such loan. Any premium loan may be repaid at any time.

Extended Insurance. 10c. Upon default in payment of premium, unless paid within the grace period, the amount of this Policy and any existing dividend additions, less any indebtedness to the Company on account hereof, shall be extended automatically as non-participating term insurance for such time from the date of default as the then cash surrender value will provide at the net single premium rate for the attained age of the Insured according to the American Experience Table of Mortality with interest at three per cent.

Paid-up Insurance. 10d. Participating paid-up insurance for such an amount as the then cash surrender value, including any policy loan indebtedness which shall remain as a lien against this Policy, will provide at the net single premium rate for the attained age of the Insured according to the American Experience Table of Mortality with interest at three per cent., may be secured in lieu of automatic extended term insurance upon written request of the Insured, with the Beneficiary and Assigns, if any, made prior to default in premium payment or within the grace period.

10e. Change from automatic extended term insurance to paid-up insurance, or vice versa, may be made in accordance with the respective provisions therefor at any time prior to default in premium payment or within the grace period.

Cash Surrender. 10f. Upon receipt of this Policy and a full and valid surrender of all claims hereunder, without the consent or participation of any

beneficiary not irrevocably designated, the Company will pay its then cash surrender value. While this Policy is in full force, including the grace period, the surrender value will be as stated in the preceding paragraph numbered 10a, and thereafter shall be the full reserve on the form of insurance then in force, less any indebtedness to the Company on account hereof.

Policy Loans. 10g. At any time while this Policy is in force except as extended term insurance, and without the consent or participation of any beneficiary not irrevocably designated, the Company will on receipt of this Policy properly assigned advance on the sole security hereof any amount up to the limit secured by its cash surrender value; such advancement to be evidenced by written agreement made at the Home Office. The sum advanced shall bear interest at the rate of six per cent. per annum and may be repaid at any time while this Policy is in force except as extended term insurance. Unpaid interest shall be added to the existing indebtedness and bear interest on the same terms. Failure to pay either the sum advanced or interest thereon shall not avoid this Policy unless the total indebtedness to the Company on account hereof shall equal or exceed the then cash surrender value, nor until thirty-one days after notice shall have been mailed to the last known address of the Insured and of any Assignee.

10h. The Company shall have the right to defer payment of a cash value or the making of a loan (unless for the purpose of paying renewal premiums on policies in this Company) for a period not exceeding ninety days.

TABLE OF NON-FORFEITURE AND LOAN VALUES

Based Upon a Policy of \$1,000 Free from Indebtedness and Without Dividend Additions

At End of Policy Year	Loan or Cash Value Per \$1,000 Insured	Paid-up Insurance Per \$1,000 Insured	Extended Term Insurance	
			Years	Days
2	\$	\$		
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				

The Loan, Cash and Paid-up values stated will apply pro rata to the amount of this Policy. Due allowance will be made for any dividend additions continued in force and also for any portion of a year's premium paid over and above the premiums for the full number of years indicated. Indebtedness will be adjusted as stated in the Policy.

The Values in this Table after the fourteenth policy year are equal to the full reserve according to the American Experience Table of Mortality with interest at three per cent. The basis upon which the Table is constructed will apply if this Policy be continued in force beyond the twenty-second year.

Loan Values are available at any time after two full years premiums have been paid, in accordance with the provisions of the above paragraphs numbered "10g" and "10h."

The Loan Values stated in the Table annexed are for the end of the Policy year indicated. The Loan Value at any time other than the end of the Policy year (provided the full year's premium has been paid) will be the value at the end of the current Policy year, discounted at the rate of six per cent. per annum.

SPECIAL PROVISIONS RELATING TO SETTLEMENT WHEN THIS POLICY BECOMES PAYABLE

The Insured shall have the right, with the privilege of revocation and change, to elect in lieu of payment in one sum, either Option "A," "B," or "C," or that the amount payable be distributed under two or more of said options. The Beneficiary or Beneficiaries when this Policy becomes payable shall have the same right and privilege if no such election effected by the Insured shall then be in force; and shall also (subject to the rights of any assignee, and if there then be living no Contingent Beneficiary designated by the Insured) have the right, with the privilege of revocation and change, to designate a Contingent Beneficiary or Beneficiaries whose interest shall be as expressed in, or endorsed by the Company on this Policy; provided however:

Amt. Payable.—1st. The amount payable must equal or exceed \$1,000 for each option elected.

Endorsement.—2nd. No election, direction, designation, revocation or change shall be effective unless duly made in writing and filed at the Home Office of the Company (accompanied by this Policy for suitable endorsement) prior to or at the time this Policy shall become payable.

Deceased Beneficiary.—3rd. If there be more than one Beneficiary when this Policy becomes payable the interest of any such Beneficiary deceased shall, upon satisfactory proof of such decease, pass to the survivor or survivors unless otherwise directed by the Insured. Under Option "C" only so many of the stipulated installments, if any, as then remain unpaid, will so pass.

Rights of Contingent Beneficiary.—4th. Unless otherwise directed by the designator the Contingent Beneficiary or Beneficiaries, if any, shall, upon satisfactory proof of the death of the last surviving Beneficiary, succeed to all the interest, rights and privileges then possessed by such Beneficiary. Under Option "C" the interest of any Contingent Beneficiary will be limited to such of the stipulated installments, if any, as then remain unpaid.

Last Surviving Beneficiary or Contingent Beneficiary.—5th. At the death of the last surviving Beneficiary if there be no Contingent Beneficiary then living, or at the death of the last surviving Contingent Beneficiary occurring subsequently thereto, the amount retained by the Company under Option "A" shall, unless otherwise directed by the designator, be paid to the executors, administrators or assigns of such last surviving Beneficiary or Contingent Beneficiary upon due surrender of this Policy. Under the same conditions any installments under Option "B," or any stipulated installments under Option "C," then remaining unpaid, shall be commuted on the basis of three per cent. compound interest and paid in one sum in like manner.

Extension. Commutation. Option A.—To have the whole or any part not less than \$1,000 of the net proceeds of this Policy at the death of the Insured retained by the Company until the death of the last surviving Beneficiary or Contingent Beneficiary, the Company in the meantime to pay interest thereon annually at the rate of three per cent. of the amount so retained, the first payment being due one year after the death of the Insured. At the time any interest payment becomes due, the Beneficiary, provided the Company shall not have been specifically directed to the contrary by the Insured, shall have the right, upon due surrender of this Policy, to withdraw the amount so retained.

Limited Installments. Commutation. Option B.—To have the whole or any part not less than \$1,000 of the net proceeds of this Policy at the death of the Insured paid in a specified number of annual installments as per the first Table below, which shall apply pro rata per \$1,000 of the amount to be so paid, the first installment being payable immediately. At any time when an installment is due, the Beneficiary, provided the Company shall not have been specifically directed to the contrary by the Insured, shall have the right upon due surrender of this Policy to commute the installments remaining unpaid on the basis of three per cent. compound interest.

LIMITED INSTALLMENT TABLE

Number of Installments.....	25	20	15	10	17	16	15*	14	13	12
Amount of Each.....	\$56.75	\$65.25	\$67.78	\$70.59	\$73.74	\$77.29	\$81.32	\$85.94	\$91.29	\$97.53

Number of Installments.....	11	10	9	8	7	6	5	4	3	2
Amount of Each.....	\$104.92	\$113.61	\$124.69	\$138.30	\$155.63	\$179.22	\$211.99	\$261.19	\$343.23	\$507.39

*Illustration.—If payment is to be made by 15 installments, the amount of each installment will be \$81.32 for each \$1,000.

Continuous Installments. Pro rata Share. Commutation. Option C.—To have the whole or any part not less than \$1,000 of the net proceeds of this Policy at the death of the Insured paid in either 10, 15, 20 or 25 stipulated annual installments of an amount corresponding in the Table below to the age of the Beneficiary at the date of the death of the Insured, provided that if the Beneficiary shall survive to receive the number of installments selected, similar installments shall be continued during the lifetime of the Beneficiary. The Table shall apply pro rata per \$1,000 of the amount to be so paid, the first installment being payable immediately. If there be two or more Beneficiaries the proceeds, unless otherwise directed by the Insured, shall be divided into a corresponding number of equal parts and the annual installments to each Beneficiary determined in accordance with the Table below for the age attained. Payments under Option "C" are not subject to commutation.

CONTINUOUS INSTALLMENT TABLE

Age of Beneficiary	NUMBER OF INSTALLMENTS STIPULATED			
	10	15	20	25
10 and under	\$42.06	\$41.24	\$40.36	\$39.46
11	42.27	41.43	40.54	39.64
12	42.48	41.63	40.72	39.81

(Etc.)

Participation.—All payments under Options "A" and "B," and the stipulated payments under Option "C," will be increased by such annual dividends as may be apportioned by the Company.

Cash Values.—Subject to the release of any existing assignment of this Policy, the foregoing Special Provisions shall, on written request and suitable endorsement hereon by the Company, apply to the net proceeds payable as the cash surrender value hereof.

Monthly Installments.—Upon written request and suitable endorsement hereon the annual payment due under any of the foregoing Special Provisions will be made in semi-annual, quarterly or monthly installments as directed, the first such installment to be paid on the date on which the annual payment is due. The amount of such installments shall be the following percentages of the annual payment, to wit: Semi-Annual, 50.37 per cent.; Quarterly, 25.28 per cent.; Monthly, 8.45 per cent.

ENDORSEMENTS

NOTE—Designations, revocations, changes, etc., of beneficiaries after issue hereof must be duly made in writing and filed with the Home Office of the Company, accompanied by this Policy for suitable endorsement by the Company, as provided herein. No other entries will be recognized.

See references under § 3870.

§ 3877. Life insurance—Waiver of premiums, etc.**THE X. Y. INSURANCE COMPANY****Agreement Supplementary to Policy No. ———
Life of A. B., Insured**

(Waiver of premiums in event of total disability before attaining 60 years of age)

In consideration of the payment of an extra premium of ——— dollars (first payment hereby acknowledged), together with each ——— premium required under said Policy, it is agreed that if, after payment of premium for one full year and during the continuance of this Agreement, the Insured shall, prior to his 60th birthday anniversary, furnish proof satisfactory to the Company that he has become totally and permanently disabled from any cause and is physically or mentally incapacitated to such an extent that he is and presumably will be wholly and permanently unable to engage in any gainful occupation or perform any work for money compensation, the Company on receipt of such proof will by suitable endorsement of this Agreement waive the payment of any and all premiums thereafter falling due under said Policy and this Agreement during the continuance of such disability, except as hereinafter stipulated and agreed:

1. No payment of extra premium under this Agreement shall be required after said Policy shall have become fully paid up or in any case after the sixtieth birthday anniversary of the Insured.

2. Notwithstanding the acceptance of proof of disability the Insured, or his legal representatives, shall annually on the anniversary of the date of said Policy, or within 31 days thereafter, file with the Company a declaration of continued disability of the Insured and shall upon request, but not oftener than once a year, furnish proof thereof satisfactory to the Company. If the Insured, or his legal representatives, at any time after such waiver shall, upon such request mailed by the Company to his or their last known address, fail to furnish such proof of continued disability, or if it shall appear to the Company that Insured has so far recovered as to be able to perform work of any kind for compensation, gain or profit, then and in either such event, said waiver shall be deemed to have failed and any premium or premiums then or thereafter falling due under said Policy and this Agreement shall be payable in accordance with the terms thereof the same as if no waiver of premiums had been made.

3. Such premiums as fall due after the receipt by Company of satisfactory proof of disability and prior to acceptance thereof shall be payable by Insured but the same shall be remitted by Company.

4. Waiver of premiums under this Agreement shall not affect the rights of the parties at interest to any benefits or privileges provided in said Policy which shall be the same as if the premiums were paid in cash.

5. It is agreed that total and permanent loss of sight of both eyes, the loss by severance of both hands at or above the wrists, or of both feet at or above the ankles, or of one entire hand and one entire foot, shall, without prejudice to any other cause of disability and upon due proof before age 60, be considered total disability within the terms of this Agreement.

6. The non-payment of the extra premium as required by this Agreement either on the due date or within the days of grace provided by said Policy shall automatically terminate this Agreement but same may be reinstated, provided the said Policy be then in full force, upon evidence satisfactory to Company of the insurability of Insured and payment of all premium arrears with interest at the rate of five per cent. per annum.

7. The premiums paid on this Agreement shall not participate in the surplus of the Company and shall remain the property of the Company in event of the termination thereof in any way.

The X. Y. Insurance Company,

_____, _____, 19____.

_____, Secretary.

This contract is a supplement to that given in § 3876.
See references under § 3870.

§ 3878. Fire insurance—Standard form

No. _____.

X. Y. COMPANY OF _____

Amount \$_____.

Rate _____.

Premium \$_____.

In consideration of the stipulations herein named and of _____ dollars premium does insure A. B. for the term of _____, from the _____ day of _____, 19____, at noon, to the _____ day of _____, 19____, at noon, against all direct loss or damage by fire, except as hereinafter provided, to an amount not exceeding _____ dollars, to the following described property while located and contained as described herein, and not elsewhere, to-wit: _____ [insert description of property, both realty and personalty].

SPECIFICATIONS

Dwelling.—It is hereby understood and agreed that the term "Dwelling," or "Building," when insured above, shall apply as follows: To the dwelling or building and its additions, foundations, plate and ornamental glass, heating apparatus, gas and water pipes and their fixtures, electric wiring and its fixtures, elevators and their appliances, decorations, window shades, verandas, screens, awnings and all other permanent fixtures, and its appliances, therein or attached thereto.

Household Goods.—It is hereby understood and agreed that the term "Household Goods," when insured above, shall apply as follows: To the household and kitchen furniture and utensils, useful and ornamental, consisting principally of bed linen and equipment, plate and plated ware, china, glassware and crockery, draperies, hangings and curtains, carpets, rugs, linoleum and other floor coverings, laundry articles and their equipment, household stores and their supplies, traveling articles and their equipment, sporting and game articles and their equipment, military and society articles, desks, typewriting machines, bicycles and toys, all musical instruments, mirrors, pictures, paintings, engravings, portraits and photographs, including frames (at not more than their actual cost), bric-a-brac, statuary, bronzes, vases, pedestals and other works of art, all jewelry and time pieces, sewing machines, photographic articles and their equipment, household, garden and lawn tools and their equipment, wines, liquors, and beverages, family, guests' and servants' wearing apparel, articles and effects (if not otherwise specifically insured), library, books, music, printed matter and stationery and all other articles and effects usual to housekeeping not more hazardous.

Stable, Sheds and Fences.—It is hereby understood and agreed that the term "Stable, Sheds and Fences," when insured above, shall apply as follows: To the building, its additions, foundation, heating apparatus, gas and water pipes, their fixtures, electric wiring and its fixtures, to the fence adjoining and all permanent fixtures and its appliances therein or attached thereto.

Vehicles and Horse Equipment.—It is hereby understood and agreed that the term "Vehicles (excluding Automobiles) and Horse Equipment," when insured above, shall apply as follows: To the vehicles, sleighs, harness, bicycles, robes, blankets, whips, hand tools and implements, hay, grain, feed and bedding, and family and servants' household goods, wearing apparel and effects.

Permits Granted.—Permission for other insurance.

Permission for temporary unoccupancy and vacancy without notice, pending rental, change of tenants and absence of family.

Permission to complete building if under construction; to make ordinary alterations, additions and repairs, this policy to cover on and in same under appropriate divisions herein, while under construction and when completed.

Natural Gas and Electricity.—Permission is hereby granted for the use of Natural Gas and Electricity for fuel, light and power, subject to the following conditions: This company will not be liable for damage by explosion of Natural Gas on the premises, unless fire ensues, and then for damages by fire only.

Gasoline Permit.—In consideration of the assured's compliance with the hereinafter named warranties, permission is hereby given to use a Gasoline or Vapor Stove in the building or (buildings) described in this policy, and to keep on hand not exceeding One Gallon in All of Gasoline, Benzine and Naphtha, the same to be kept in and used from well secured metal cans, to be free from leaks, and to be filled outside of the building or (buildings) where this policy covers.

Warranted by the assured that the stove reservoir shall be filled by daylight only and when the stove is not in use, and that no artificial light other than incandescent electric shall be permitted in the room when the stove reservoir is being filled, or when any of the Fluids are being used, that no Gasoline, Benzine or Naphtha, except that contained in the stove reservoir shall be kept within the building or (buildings) where this policy covers (except as above provided), and that not more than Five Gallons shall be kept in a tight and entirely closed metallic can, free from leaks, on the premises adjacent thereto.

Caution.—The principal danger from Gasoline stoves is in having Gasoline about. At ordinary temperature Gasoline continually gives off inflammable and explosive vapor, and a flame some distance from the material will ignite it through the medium of this vapor. The vapor from one pint of Gasoline will make 200 cubic feet of air explosive. It depends upon the proportion of air and vapor whether it becomes a burning gas or destructive explosive. Beware of any leaks, and never forget how dangerous a material you are using.

Lightning Clause.—This policy shall cover any direct loss or damage caused by lightning (meaning thereby the commonly accepted use of the term "lightning," and in no case to include loss or damage by cyclone, tornado or windstorm) not exceeding the sum insured nor the interest of the insured in the property and subject in all other respects to the terms and conditions of this policy; provided however, that if there shall be any other insurance on said property this company shall be liable only pro rata with such other insurance for any direct loss by lightning, whether such other insurance be against direct loss by lightning or not; and provided further, that if Switch-Boards, Dynamos, Motors, Batteries, Wires, Lamps, Cables or other Electrical Appliances or Devices are insured by this policy, this company shall not be liable for any loss or damage to such property resulting from any electrical injury or disturbance, whether from artificial or natural causes, and will be liable only for such loss and damage to them which may occur in consequence of fire in the building herein described and originating outside of the machines and appurtenances themselves.

Attached to and made a part of Policy No. ——— of the X. Y. Insurance Company of ———, Agents.

This Policy is made and accepted subject to the foregoing stipulations and conditions, and to the following stipulations and conditions printed on back hereof, which are hereby specially referred to and made a part of this Policy, together with such other provisions, agreements or conditions as may be endorsed hereon or added hereto; and no officer, agent or other representative of this Company shall have power to waive any provision or condition of this Policy except such as by the terms of this Policy may be the subject of agreement endorsed hereon or added hereto; and as to such provisions and conditions no officer, agent or representative shall have such power or be deemed or held to have waived such provisions or conditions unless such waiver, if any, shall be written upon or attached hereto, nor shall any privilege or permission affecting the insurance under this Policy exist or be claimed by the insured unless so written or attached.

Provisions required by law to be stated in this Policy.—This Policy is in a stock corporation.

In witness whereof, etc.

This company shall not be liable beyond the actual cash value of the property at the time any loss or damage occurs, and the loss or damage shall be ascertained or estimated according to such actual cash value, with proper deduction for depreciation however caused, and shall in no event exceed what it would then cost the insured to repair or replace the same with material of like kind and quality; said ascertainment or estimate shall be made by the insured and this company, or, if they differ, then by appraisers, as hereinafter provided; and, the amount of loss or damage having been thus determined, the sum for which this company is liable pursuant to this policy shall be payable sixty days after due notice, ascertainment, estimate, and satisfactory proof of the loss have been received by this company in accordance with the terms of this policy. It shall be optional, however, with this company to take all, or any part, of the articles at such ascertained or appraised value, and also to repair, rebuild or replace the property lost or damaged with other of like kind and quality within a reasonable time on giving notice, within thirty days after the receipt of the proof herein required, of its intention so to do; but there can be no abandonment to this company of the property described.

This entire policy shall be void if the insured has concealed or misrepresented, in writing or otherwise, any material fact or circumstance concerning this insurance or the subject thereof; or if the interest of the insured in the property be not truly stated herein; or in case of any fraud or false swearing by the insured touching any matter relating to this insurance or the subject thereof, whether before or after a loss.

This entire policy, unless otherwise provided by agreement indorsed hereon or added hereto, shall be void if the insured now has or shall hereafter make or procure any other contract of insurance, whether valid or not, on property covered in whole or in part by this policy; or if the subject of insurance be a manufacturing establishment and it be operated in whole or in part at night later than ten o'clock, or if it cease to be operated for more than ten consecutive days; or if the hazard be increased by any means within the control or knowledge of the insured; or if mechanics be employed in building, altering or repairing the within described premises for more than fifteen days at any one time; or if the interest of the insured be other than unconditional and sole ownership; or if the subject of insurance be a building on ground not owned by the insured in fee-simple; or if the subject of insurance be personal property and be or become incumbered by a chattel mortgage; or if, with the knowledge of the insured, foreclosure proceedings be commenced or notice given of sale of any property covered by this policy by virtue of any mortgage or trust deed; or if any change, other than by the death of an insured, take place in the interest, title, or possession of the subject of insurance (except change of occupants without increase of hazard) whether by legal process or judgment or by voluntary act of the insured, or otherwise; or if this policy be assigned before a loss; or if illuminating gas or vapor be generated in the described building (or adjacent thereto) for use therein; or if (any usage or custom of trade or manufacture to the contrary notwithstanding) there be kept, used, or allowed on the above described premises, benzine, benzole, dynamite, ether, fireworks, gasoline, greek fire, gunpowder exceeding twenty-five pounds in quantity, naphtha, nitroglycerine or other explosives, phosphorus, or petroleum or any of its products of greater inflammability than kerosene oil of the United States standard (which last may be used for lights and kept for sale according to law but in quantities not exceeding five barrels, provided it be drawn and lamps filled by daylight or at a distance not less than ten feet from artificial light); or if a building herein

described, whether intended for occupancy by owner or tenant, be or become vacant or unoccupied and so remain for ten days.

This company shall not be liable for loss caused directly or indirectly by invasion, insurrection, riot, civil war or commotion, or military or usurped power, or by order of any civil authority; or by theft; or by neglect of the insured to use all reasonable means to save and preserve the property at and after a fire or when the property is endangered by fire in neighboring premises; or (unless fire ensues, and, in that event, for the damage by fire only) by explosion of any kind, or lightning; but liability for direct damage by lightning may be assumed by specific agreement hereon.

If a building or any part thereof fall, except as the result of fire, all insurance by this policy on such building or its contents shall immediately cease.

This company shall not be liable for loss to accounts, bills, currency, deeds, evidences of debt, money, notes, or securities; nor, unless liability is specifically assumed hereon, for loss to awnings, bullion, casts, curiosities, drawings, dies, implements, jewels, manuscripts, medals, models, patterns, pictures, scientific apparatus, signs, store or office furniture or fixtures, sculpture, tools, or property held on storage or for repairs; nor, beyond the actual value destroyed by fire, for loss occasioned by ordinance or law regulating construction or repair of buildings, or by interruption of business, manufacturing processes, or otherwise; nor for any greater proportion of the value of plate glass, frescoes, and decorations than that which this policy shall bear to the whole insurance on the building described.

If an application, survey, plan, or description of property be referred to in this policy it shall be a part of this contract and a warranty by the insured.

In any matter relating to this insurance no person, unless duly authorized in writing, shall be deemed the agent of this company.

This policy may by a renewal be continued under the original stipulations, in consideration of premium for the renewed term, provided that any increase of hazard must be made known to this company at the time of renewal or this policy shall be void.

This policy shall be canceled at any time at the request of the insured; or by the company by giving five days' notice of such cancelation. If this policy shall be canceled as hereinbefore provided, or become void or cease, the premium having been actually paid, the unearned portion shall be returned on surrender of this policy or last renewal, this company retaining the customary short rate; except that when this policy is canceled by this company by giving notice it shall retain only the pro rata premium.

If, with the consent of this company, an interest under this policy shall exist in favor of a mortgagee or of any person or corporation having an interest in the subject of insurance other than the interest of the insured as described herein, the conditions hereinbefore contained shall apply in the manner expressed in such provisions and conditions of insurance relating to such interest as shall be written upon, attached, or appended hereto.

If property covered by this policy is so endangered by fire as to require removal to a place of safety, and is so removed, that part of this policy in excess of its proportion of any loss and of the value of property remaining in the original location, shall, for the ensuing five days only, cover the property so removed in the new location; if removed to more than one location, such excess of this policy shall cover therein for such five days in the proportion that the value in any one such new location bears to the value in all such new locations; but this company shall not, in any case of removal, whether to one or more locations, be liable beyond the proportion that the amount hereby insured shall bear to the total insurance on the whole property at the time of fire, whether the same cover in new location or not.

If fire occur the insured shall give immediate notice of any loss thereby in writing to this company, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, make a complete inventory of the same, stating the quantity and cost of each article and the amount claimed thereon; and, within sixty days after the fire, unless such time is extended in writing by this company, shall render a statement to this company, signed and sworn to by said insured, stating the knowledge and belief of the insured as to the time and origin of the fire; the interest of the insured and of all others in the property; the cash value of each item thereof and the amount of loss thereon; all incumbrances thereon; all other insurance, whether valid or not, covering any of said property; and a copy of all the descriptions and schedules in all policies; any changes in the title, use, occupation, location, possession, or exposures of said property since the issuing of this policy; by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of fire; and shall furnish, if required, verified plans and specifications of any building, fixtures, or machinery destroyed or damaged; and shall also, if required, furnish a certificate of the magistrate or notary public (not interested in the claim as a creditor or otherwise, nor related to the insured) living nearest the place of fire, stating that he has examined the circumstances and believes the insured has honestly sustained loss to the amount that such magistrate or notary public shall certify.

The insured, as often as required, shall exhibit to any person designated by this company all that remains of any property herein described, and submit to examinations under oath by any person named by this company, and subscribe the same; and, as often as required, shall produce for examination all books of account, bills, invoices, and other vouchers, or certified copies thereof if originals be lost, at such reasonable place as may be designated by this company or its representative, and shall permit extracts and copies thereof to be made.

In the event of disagreement as to the amount of loss the same shall, as above provided, be ascertained by two competent and disinterested appraisers, the insured and this company each selecting one, and the two so chosen shall first select a competent and disinterested umpire; the appraisers together shall then estimate and appraise the loss, stating separately sound value and damage, and, failing to agree, shall submit their differences to the umpire; and the award in writing of any two shall determine the amount of such loss; the parties thereto shall pay the appraiser respectively selected by them and shall bear equally the expenses of the appraisal and umpire.

This company shall not be held to have waived any provision or condition of this policy or any forfeiture thereof by any requirement, act, or proceeding on its part relating to the appraisal or to any examination herein provided for; and the loss shall not become payable until sixty days after the notice, ascertainment, estimate, and satisfactory proof of the loss herein required have been received by this company, including an award by appraisers when appraisal has been required.

This company shall not be liable under this policy for a greater proportion of any loss on the described property, or for loss by and expense of removal from premises endangered by fire, than the amount hereby insured shall bear to the whole insurance, whether valid or not, or by insolvent insurers, covering such property, and the extent of the application of the insurance under this policy or of the contribution to be made by this company in case of loss, may be provided for by agreement or condition written hereon or attached or appended hereto. Liability for re-insurance shall be as specifically agreed hereon.

If this company shall claim that the fire was caused by the act or neglect of any person or corporation, private or municipal, this company shall, on

payment of the loss, be subrogated to the extent of such payment to all right of recovery by the insured for the loss resulting therefrom, and such right shall be assigned to this company by the insured on receiving such payment.

No suit or action on this policy, for the recovery of any claim, shall be sustainable in any court of law or equity until after full compliance by the insured with all the foregoing requirements, nor unless commenced within twelve months next after the fire.

Wherever in this policy the word "insured" occurs, it shall be held to include the legal representative of the insured, and wherever the word "loss" occurs, it shall be deemed the equivalent of "loss or damage."

If this policy be made by a mutual or other company having special regulations lawfully applicable to its organization, membership, policies or contracts of insurance, such regulations shall apply to and form a part of this policy as the same may be written or printed upon, attached, or appended hereto.

ASSIGNMENT OF INTEREST BY INSURED

The interest of A. B., as owner of property covered by this policy is hereby assigned to C. D., subject to the consent of the X. Y. Company of ____.

____ [signature of insured.]

Dated ____.

Note.—To secure mortgagees, if desired, the policy should be made payable on its face to such mortgagee, as follows: Loss, if any, payable to ____, mortgagee.

CONSENT BY COMPANY TO ASSIGNMENT OF INTEREST

The X. Y. Company of ____, hereby consents that the interest of A. B., as owner of the property covered by this policy be assigned to C. D.

____ [signature for the company.]

Dated ____.

FORM FOR REMOVAL

Permission is hereby granted to remove the property insured by this policy to the ____ situate ____ and this policy is hereby made to cover the same property in new locality, all liability in former locality to cease from this date. Rate increased to ____%. Additional premium, \$____. Rate reduced to ____%. Return premium, \$____.

____, Agent.

Dated, ____, 19__.

Sheet ____, Block ____, No. ____.

☞ If this policy is cancelled the following receipt is to be filled up and signed by the insured.

____, 19__.

In consideration of ____ dollars, return premium, the receipt of which is hereby acknowledged, this policy is cancelled and surrendered to X. Y. Company of ____.

____, Assured.

For the effect of a provision waiving the valued policy statute, see § 730.
For conditions as to change of title, etc., see §§ 2599 et seq.
For the effect of war, see § 2746.
For covenants for appraisal, arbitration, etc., see §§ 2614 et seq.
See references under § 3870.

§ 3879. Insurance of automobile—Fire, theft and transportation.

No. _____

THE X Y COMPANY OF _____

In consideration of the warranties and the premium hereinafter mentioned does insure the assured named and described herein upon the body, machinery and equipment of the automobile described herein while within the limits of the United States (exclusive of Alaska, the Hawaiian Islands and Porto Rico) and Canada, including while in building, on road, on railroad car or other conveyance, ferry or inland steamer, or coastwise steamer between ports within said limits, for the term herein specified and to an amount not exceeding the amount of insurance herein specified, against direct loss or damage caused while this policy is in force, by the perils specifically insured against.

Form No. 2—Non-Valued Fire, Theft and Transportation

Agency at _____

THE X Y COMPANY

Attached to and made part of policy

No. _____

Rate at _____%

Old policy No. _____

Amount, \$ _____

Premium, \$ _____

Does insure A. B., address _____, from _____, 19—, at noon, standard time, to _____, 19—, at noon, standard time, to an amount not exceeding _____ dollars.

Warranties—The following are statements of facts known to and warranted by the Assured to be true, and this policy is issued by this Company relying upon the truth thereof: Business of Assured _____ [state occupation or means of support; if assured is a married woman, state husband's occupation].

The following is the description of the automobile:

Trade Name	Factory or Motor Number	Type of Body (If Truck State Tonnage)	Motive Power	No. of Cylinders	Advertised Horse Power	Year Built	Model, Year, Letter or Number

The facts with respect to the purchase of the automobile described are as follows:

Purchased by the Assured			Actual Cost to Assured Including Equipment	The Automobile Described is Fully Paid for by the Assured and is not Mortgaged or Otherwise Encumbered, Except as Follows:
Month	Year	New or Second Hand		

The uses to which the automobile described are and will be put, are _____. The automobile described is usually kept in _____ [state whether private or public] garage, located, No. _____, Street _____, City _____, State _____.

PERILS INSURED AGAINST

(Except as hereinafter provided)

(A) Fire arising from any cause whatsoever and Lightning.

(B) While being transported in any conveyance by land or water—stranding, sinking, collision, burning or derailment of such conveyance, including general average and salvage charges for which the Assured is legally liable.

(C) Theft, robbery or pilferage, excepting by any person or persons in the Assured's household or in the Assured's service or employment whether the theft, robbery or pilferage occur during the hours of such service or employment or not, and excepting also the wrongful conversion or secretion by a mortgagor or vendee in possession under mortgage, condition sale or lease agreement, and excepting in any case other than in case of total loss of the automobile described herein, the theft, robbery or pilferage of tools and repair equipment.

EXCLUSIONS

1. It is a condition of this policy that this Company shall not be liable for:
 - (a) Loss or damage to robes, wearing apparel, personal effects or extra bodies;
 - (b) Loss or damage which may be caused directly or indirectly by invasion, insurrection, riot, civil war or commotion, or military or usurped power;
2. It is a condition of this policy that it shall be null and void:
 - (a) If the automobile described herein shall be used for carrying passengers for compensation, or rented, or leased, or operated in any race or speed contest during the term of this policy;
 - (b) If at the time a loss occurs there be any other insurance covering against the risks assumed by this policy which would attach if this insurance had not been effected;
 - (c) If the interest of the Assured in the property be other than unconditional and sole ownership, or if the subject of this insurance be or become encumbered by any lien or mortgage except as otherwise endorsed hereon;
 - (d) If this policy or any part thereof shall be assigned without the consent of this Company endorsed hereon or in case of transfer or termination of any interest of the Assured other than by the death of an Assured, or any change in the nature of the insurable interest of the Assured in the property described herein, either by sale or otherwise.

SPECIAL PROVISIONS

This Company shall not be liable beyond the actual cash value of the property at the time any loss or damage occurs, and the loss or damage shall be ascertained or estimated according to such actual cash value, with proper deduction for depreciation however caused, and shall in no event exceed what it would then cost the assured to repair or replace the same with material of like kind and quality; such ascertainment or estimate shall be made by the Assured and this Company, or, if they differ, then by Appraisers as herein provided. It shall be optional with this Company to take all or any part of the property at such ascertained or appraised value and also to repair, rebuild or replace the property lost or damaged with other of like kind and quality within a reasonable time, on giving notice within thirty days after the receipt of sworn statement of loss herein required of its intention so to do; but there can be no abandonment to this Company of the property described.

Attached to and made part of Policy No. ———.

———, Resident Agent.
(Signature of Agent)

CONDITIONS

Notice and Proof of Loss.—In the event of loss or damage the Assured shall forthwith give notice thereof in writing to this Company or the authorized agent who issued this policy, and shall protect the property from further loss or damage; and within sixty days thereafter, unless such time is extended in writing by this Company, shall render a statement to this Company, signed and

sworn to by said Assured, stating the knowledge and belief of the Assured as to the time and cause of the loss or damage, the interest of the Assured, and of all others in the property; and the Assured, as often as required, shall exhibit to any person designated by this Company all that remains of any property herein described, and submit to examinations under oath by any person named by this Company, and subscribe the same; and, as often as required, shall produce for examination all books of account, bills, invoices, and other vouchers, or certified copies thereof if originals be lost, at such reasonable place as may be designated by this Company or its representative, and shall permit extracts and copies thereof to be made.

It is a condition of this policy that failure on the part of the Assured to render such sworn statement of loss to this Company within sixty days of the date of loss (unless such time is extended in writing by the Company) shall render such claim null and void.

Appraisal.—In the event of disagreement as to the amount of loss or damage the same must be determined by competent and disinterested appraisers before recovery can be had hereunder. The Assured and this Company shall each select one, and the two so chosen shall then select a competent and disinterested umpire. Thereafter the appraisers together shall estimate and appraise the loss or damage, stating separately sound value and damage, and failing to agree, shall submit their differences to the umpire; and the award in writing of any two shall determine the amount of such loss or damage; the parties thereto shall pay the appraiser respectively selected by them and shall bear equally the expenses of the appraisal and umpire.

Payment of Loss.—This Company shall not be held to have waived any provision or condition of this policy or any forfeiture thereof by any requirement, act or proceeding on its part relating to the appraisal or to any examination herein provided for; and the sum for which this Company is liable, pursuant to this policy, shall be payable sixty days after the notice, ascertainment, estimate and satisfactory proof of the loss herein required, have been received by this Company, including an award by appraisers when appraisal is required hereunder.

Protection of Salvage.—Any act of the Assured or this Company or its agents, in recovering, saving and preserving the property described herein in case of loss or damage, shall be considered as done for the benefit of all concerned and without prejudice to the rights of either party, and all reasonable expenses thus incurred shall constitute a claim under this policy.

Subrogation.—If this Company shall claim that the loss or damage was caused by the act or neglect of any person or corporation, private or municipal, this Company shall, on payment of the loss, be subrogated to the extent of such payment to all right of recovery by the Assured for the loss resulting therefrom, and such right shall be assigned to this Company by the Assured on receiving such payment.

It is a condition of this policy that this insurance shall not inure to the benefit of any carrier whatsoever but the right of the Assured to recover under this policy shall not be prejudiced by any release from liability which may have been given to any railroad or other carrier or bailee in any bill-of-lading or other contract of carriage or storage, and this Company concedes to the Assured the right to give such release; any right of recovery the Assured is entitled to against said carrier or others shall, by subrogation, inure to the benefit of this Company upon payment of the claim and this Company shall be entitled, if they so desire, to take over and conduct in the name of the Assured, the defense of any action or to prosecute any claim for indemnity, damages or otherwise against any third party.

Cancellation.—This policy shall be cancelled at any time at the request of the Assured; or by the Company by giving five days' notice of such cancellation. If this policy shall be cancelled as hereinbefore provided, or become void or cease, the premium having been actually paid, the unearned portion shall be returned on surrender of this policy, this Company retaining the customary short rate; except that when this policy is cancelled by this Company by giving notice it shall retain only the pro rata premium. Notice of cancellation mailed

to the address of the Assured stated in the policy shall be a sufficient notice; the check of this Company, or its agent, when similarly mailed shall be a sufficient tender of any unearned premium.

Misrepresentation and Fraud.—This entire policy shall be void if the Assured or his agent has concealed or misrepresented, in writing or otherwise, any material fact or circumstance concerning this insurance or the subject thereof; or if the Assured or his agent shall make any attempt to defraud this Company either before or after the loss.

Agent.—No person shall be deemed an agent of this Company unless specifically authorized in writing by the Company.

Suit Against Company.—No suit or action on this policy, for the recovery of any claim shall be sustainable in any court of law or equity unless the Assured shall have fully complied with all the foregoing requirements, nor unless commenced within twelve months next after the happening of the loss, provided that where such limitation of time is prohibited by the laws of the state wherein this policy is issued, then and in that event no suit or action under this policy shall be sustainable unless commenced within the shortest limitation permitted under the laws of such state.

This policy is made and accepted subject to the provisions, exclusions, conditions and warranties set forth herein or endorsed hereon together with such other provisions, exclusions, conditions or warranties as may be endorsed hereon or added hereto, and upon acceptance of this policy the Assured agrees that its terms embody all agreements then existing between himself and the Company, or any of its agents relating to the insurance described herein, and no officer, agent or other representative of this Company shall have power to waive any of the terms of this policy unless such waiver be written upon or attached hereto, nor shall any privilege or permission affecting the insurance under this policy exist or be claimed by the Assured unless so written or attached.

In witness whereof, etc.

See references under § 3870.

§ 3880. Indemnity insurance—Automobile accidents, etc.

Automobile Policy .

Number ———

THE X. Y. COMPANY OF ———

(Hereinafter called the Company)

In consideration of the premium and the representations of the Assured hereinafter set forth and made a part of this contract hereby agrees to indemnify the person, firm or corporation named in the Schedule, hereinafter called the Assured,

Against loss from the liability imposed by law upon the Assured

for damages on account of bodily injuries, including death, accidentally suffered by any person or persons not employed by the assured, by reason of the ownership, maintenance or use of any automobile enumerated in the Schedule, for the purposes hereinafter described, during the period hereinafter stated or any continuance thereof by renewal.

A. If the use specified is Private and Pleasure, it shall include ordinary business purposes except the carriage of passengers for a consideration express or implied, or demonstrating, or testing, or the transportation of materials or merchandise. If the specified use is Commercial, meaning an automobile used for transportation of materials or merchandise, it shall include the loading and unloading of materials or merchandise carried on the automobile.

B. This policy shall not apply to injuries sustained while any automobile is let out for hire; is driven in any race or competitive speed test, or by any

person under the age affixed by law or under the age of sixteen in any event; outside the confines of the United States, Canada or Mexico; nor shall this Policy apply to any Workmen's Compensation Agreement, Act, Plan or Law.

C. In addition to the limits stated the Company will, at its own expense, investigate, defend or settle in the name of and in behalf of the Assured, any claims, demands or suits on account of injuries, including suits alleging injuries and demanding damages, although the claims, demands or suits are wholly groundless, fraudulent or false, and will pay all costs taxed against the Assured and all interest accruing on such portion of a judgment as shall not be in excess of the Company's limit of liability as herein expressed, rendered on account of any claim covered hereunder.

D. Upon the occurrence of an accident, or notice of any claim, the Assured shall give immediate written notice thereof to the Company or its duly authorized Agent. If suit is brought, the summons or other process shall be immediately forwarded to the Company. The Assured shall, when requested, aid in effecting settlements, securing evidence, the attendance of witnesses, and in prosecuting appeals. The Assured shall not, except at his own cost, incur any expense, assume any liability, or interfere in any negotiation or legal proceeding without the written consent of the Company previously given, except that the Assured may provide, at the Company's expense at the time of any accident covered hereunder, such immediate surgical relief as may be necessary.

E. No assignment of interest under this Policy shall bind the Company unless its consent shall be endorsed hereon.

F. If the Assured carries a Policy with any other Insurer covering concurrently a claim covered hereunder, he shall not recover from this Company a larger portion of any such claim than the sum hereby insured bears to the whole amount of all valid and collectible insurance.

G. The Company shall be subrogated in case of any payment under this Policy to the extent of such payment to the Assured's rights of recovery thereof against others.

H. This Policy may be cancelled at any time by either of the parties hereto upon written notice to the other party stating when thereafter cancellation shall be effective and the date of cancellation shall then be the end of the Policy Period. If such cancellation is at the Company's request, the Assured shall be given five days' written notice of same and the earned premium shall be computed and adjusted pro rata. If at the Assured's request, the earned premium shall be computed and adjusted at short rates in accordance with the table printed hereon. Notice of cancellation mailed to the address of the Assured herein given shall be sufficient notice and the check of the Company similarly mailed a sufficient tender of any unearned premium.

I. No provision of this Policy shall be waived or altered except by Rider attached, signed by an Officer of the Company.

J. The Company's liability for the indemnity provided herein is limited to the amounts and as expressed in the Schedule, which limits shall apply to each automobile covered hereunder.

K. The statements in the Schedule hereinafter contained are represented by the Assured to be true. This Policy is issued in consideration of such representations, the provision of the policy respecting its premium and the payment of the premium in such Schedule expressed.

In witness whereof, etc.

E. F., Secretary.

C. D., President,
By G. H., Authorized Agent.

**CLAUSES HEREIN LISTED ARE ATTACHED TO POLICY AND COVERAGE
EXTENDED ONLY AS PREMIUM CHARGE IS MADE IN SCHEDULE
AND THE ENDORSEMENT COUNTERSIGNED BY AN AU-
THORIZED AGENT OF THE COMPANY**

\$1000.00 Property Damage—(Covering Damage to Property of Others)

No. 1. In consideration of an additional premium of ——— Dollars (\$——) and subject to all its terms and conditions, this Policy also agrees to indemnify the Assured against loss or expense arising from claims upon the Assured for damage to or destruction of property of every description (except property of the Assured, or in charge of the Assured, or any of the Assured's employes or carried in or upon any automobile covered by this Policy), arising from an accident occurring while this endorsement is in force.

In consideration of the premium at which this Policy is written, it is understood and agreed that the Company's liability under this Policy is limited to the value of the property damaged or destroyed at the time of its damage or destruction, or the cost of its suitable repair or replacement.

The Company's liability under this indorsement for loss on account of any one accident is limited to One Thousand Dollars (\$1,000.00).

The company, will, however, in addition thereto, at its own expense, defend in the name and on behalf of the Assured all suits brought to enforce such claims whether groundless or not.

The limit of the Company's liability as herein described shall apply to each of the automobiles covered by this Policy.

Nothing herein contained shall vary, alter or extend any condition or provision of the within Policy, except as hereinbefore stated.

American Bonding and Casualty Company.

Countersigned at ———, this ——— day of ———, 19——, by G. H., [Authorized Agent.]

Collision "Damage Sustained" Clause—(Full Coverage)

No. 2. In consideration of an additional premium of ——— Dollars, this Policy also covers, subject to its other conditions, damage to the automobile and (or) equipment herein described (each accident being deemed a separate claim), by being in accidental collision, during the period insured with any other automobile, vehicle or object, excluding (1) loss or damages to any tire due to puncture, cut, gash, blowout or other ordinary tire trouble, and excluding in any event loss or damage to any tire unless caused in an accidental collision which also causes other loss or damage to the insured automobile, (2) loss or damage while the automobile insured is being operated in any race or speed contest or while being operated by any person under the age of sixteen years or under the age limit fixed by law.

Excluding loss or damage caused directly or indirectly by fire.

It is hereby mutually understood and agreed; that:

In the event of damage to or the destruction of any automobile covered hereunder, the nature and extent of the damage requiring repair or replacement may be determined between the parties hereto, if possible; otherwise, by two appraisers, one to be chosen by the Assured, and one by the Company. The two appraisers so chosen, if they are not able to agree, may select a third, and the award in writing of any two of the appraisers shall determine the nature and extent of the damage requiring repair or replacement. The Company and the Assured shall pay the appraisers respectively selected by them, and shall bear equally the other expenses of the appraisal and of the third appraiser if one is

selected. The Company may accomplish such repair or replacement so determined by such means as it may elect, and retain all salvage, or, at the option of the Company, pay in money the amount of the loss as fixed by the appraisers.

The Company shall have reasonable time and opportunity to examine any damaged automobile or its equipment covered hereunder before repairs are undertaken or physical evidence of the damage removed; but the Assured shall not be prejudiced hereunder by any act on his part or in his behalf undertaken for the protection of salvage of the damaged automobile or its equipment.

In the event of loss or damage to said automobile, whether such loss or damage is covered by the Policy or not, the liability of this Company for loss or damage resulting from collision in accordance with the terms of this endorsement shall be reduced by the amount of such loss or damage until repairs have been completed, but shall then attach for the full amount as originally written without additional premium.

Subject otherwise to all conditions, agreements and limitations of the policy as written, except as herein specifically provided.

American Bonding and Casualty Company,
A. B., President.

Countersigned at ———, this ——— day of ———, 19—, by G. H., [Authorized Agent.]

Additional Assured—Endorsement

Effective ———. Not valid unless countersigned by a duly authorized agent.

It is agreed—while any automobile covered by this policy is being used with the express or implied consent of the Assured named in the Policy or of an adult member of said named Assured's household who is not a chauffeur or domestic servant—that, any insurance granted by the Policy shall in addition to the said named Assured, inure to the benefit of any person riding in said automobile as well as to the benefit of any person, firm or corporation responsible for the operation of said automobile.

Subject otherwise to all conditions, agreements and limitations of the policy as written, except as herein specifically provided.

Attached to and forming part of Policy No. ———, issued by American Bonding and Casualty Company to ——— of ———.

A. B., President.

Countersigned at ——— this ——— day of ———, 19—, by G. H., [Authorized Agent.]

SCHEDULE

By the acceptance of this Policy the Assured makes and represents to be true each of the following Statements, except such as are declared to be matters of estimate only.

- Statement 1. Name of Assured: ———.
- Statement 2. Address of Assured: ——— [street and number, city or town, county and state].
- Statement 3. The Assured is: ——— [individual, co-partnership, corporation, trustee or estate].
- Statement 4. The Assured's business or occupation is: ———.
- Statement 5. The automobiles are principally used and kept in the location named in Statement 2, except as follows: ———.
- Statement 6. The automobiles covered by this Policy, the purposes for which they are to be used, and the premium charge for same are as follows:

PARTICULARS	CAR No. 1		CAR No. 2		CAR No. 3		CAR No. 4	
Trade Name of Automobile								
Factory Number of Engine or Motor								
List Price	\$							
Horse Power	Adv.	Ins.	Adv.	Ins.	Adv.	Ins.	Adv.	Ins.
Model of Car (Catalog No. or Letter)								
Year of Model								
Style of Body								
Only Purpose for Which Automobiles are to be Used								

- Statement 7. None of the automobiles herein described are rented to others or used to carry passengers for a consideration, actual or implied, except as follows: _____.
- Statement 8. No claims have been made for bodily injury or property damage caused by any automobile driven by or for the Assured, except as follows: _____.
- Statement 9. No company has refused to issue or renew, or has cancelled any automobile insurance of the applicant during the past three years, except as follows: _____.
- Statement 10. The Policy Period shall be _____ months, beginning on the _____ day of _____, 19____, at noon, and ending on the _____ day of _____, 19____, at noon, Standard Time, as to both dates at the Assured's address set forth in Statement 2.
- Statement 11. The Company's Limit of Liability for one person injured shall be five thousand dollars (\$5,000.00), and subject to that limit for each person the Company's total liability on account of any one accident injuring more than one person shall be limited to ten thousand dollars (\$10,000.00).

NOTICE TO ASSURED

This Policy extends coverage only for the following forms for which a premium is charged.

Liability		PREMIUM
Property Damage	For \$1,000 collision damage to property of others as per Clause No. 1. printed on Page No. 2	\$.....
Collision (Full Coverage)	For collision damage sustained (Full coverage) as per Clause No. 2. printed on Page No. 2	\$.....
Deductible Collision	End No.	\$.....
	Total Premiums	\$.....

ENDORSEMENT—RIGHT OF ACTION AGAINST COMPANY

No action shall be brought against the Company under or by reason of this Policy unless it shall be brought by and in the name of Assured for a loss, defined hereunder, after final judgment has been rendered in a suit, described hereunder, and within ninety days from the date of such judgment, to-wit: for loss that the Assured has actually sustained by the Assured's payment in money—(a) of a final judgment rendered after a trial in a suit against the Assured for damages; (b) of the expense (excluding any payment in settlement of a suit or judgment) incurred by the Assured in the defense of a suit against the Assured for damages. The Company does not prejudice by this condition any defense against such action that it may be entitled to make under this Policy.

_____, President.

See references under § 3870.

§ 3881. Workmen's compensation policy.**THE X Y COMPANY OF ———**

Does hereby agree with this employer, named and described as such in the declarations forming a part hereof, as respects personal injuries sustained by employees, including death at any time resulting therefrom as follows:

One (a)—To pay promptly to any person entitled thereto, under the Workmen's Compensation Law and in the manner therein provided, the entire amount of any sum due, and all instalments thereof as they become due,

(1) To such person because of the obligation for compensation for any such injury imposed upon or accepted by this Employer under such of certain statutes, as may be applicable thereto, cited and described in an endorsement attached to this Policy, each of which statutes is herein referred to as the Workmen's Compensation Law, and

(2) For the benefit of such person the proper cost of whatever medical, surgical, nurse or hospital services, medical or surgical apparatus or appliances and medicines, or, in the event of fatal injury, whatever funeral expenses are required by the provisions of such Workmen's Compensation Law.

It is agreed that all the provisions of each Workmen's Compensation Law covered hereby shall be and remain a part of this contract as fully and completely as if written herein, so far as they apply to compensation or other benefits for any personal injury or death covered by this Policy, while this Policy shall remain in force. Nothing herein contained shall operate to so extend this Policy as to include within its terms any Workmen's Compensation Law, scheme or plan not cited in an endorsement hereto attached.

One (b) —To indemnify this Employer against loss by reason of the liability imposed upon him by law for damages on account of such injuries to such of said employees as are legally employed wherever such injuries may be sustained within the territorial limits of the United States of America or the Dominion of Canada. In the event of the bankruptcy or insolvency of this Employer the Company shall not be relieved from the payment of such indemnity hereunder as would have been payable but for such bankruptcy or insolvency. If, because of such bankruptcy or insolvency, an execution against this Employer is returned unsatisfied in an action brought by the injured, or by another person claiming by, through or under the injured, then an action may be maintained by the injured, or by such other person claiming by, through or under the injured, against the Company under the terms of this Policy for the amount of the judgment in said action not exceeding the amount of this Policy.

Two—To serve this Employer (a) by the inspection of work places covered by the Policy when and as deemed desirable by the Company and thereupon

to suggest to this Employer such changes or improvements as may operate to reduce the number or severity of injuries during work, and, (b) upon notice of such injuries, by investigation thereof and by settlement of any resulting claims in accordance with law.

Three—To defend, in the name and on behalf of this Employer, any suits or other proceedings which may at any time be instituted against him on account of such injuries, including suits or other proceedings alleging such injuries and demanding damages or compensation therefor, although such suits, other proceedings, allegations or demands are wholly groundless, false or fraudulent.

Four—To pay all costs taxed against this Employer in any legal proceeding defended by the Company, all interest accruing after entry of judgment and all expenses incurred by the Company for investigation, negotiation or defense.

Five—This agreement shall apply to such injuries sustained by any person or persons employed by this Employer whose entire remuneration shall be included in the total actual remuneration, for which provision is hereinafter made, upon which remuneration the premium for this Policy is to be computed and adjusted, and, also to such injuries so sustained by the President, any Vice-President, Secretary or Treasurer of this Employer, if a corporation. The remuneration of any such designated officer shall not be subjected to a premium charge unless he is actually performing such duties as are ordinarily undertaken by a superintendent, foreman or workman.

Six—This agreement shall apply to such injuries so sustained by reason of the business operations described in said Declarations which, for the purpose of this insurance, shall include all operations necessary, incident or appurtenant thereto, or connected therewith, whether such operations are conducted at the work places defined and described in said Declarations or elsewhere in connection with, or in relation to, such work places.

Seven—This agreement shall apply only to such injuries so sustained by reason of accidents occurring during the Policy Period limited and defined as such in Item 2 of said Declarations.

This Agreement is subject to the following Conditions:

A. The premium is based upon the entire remuneration earned, during the Policy Period, by all employees of this Employer engaged in the business operations described in said Declarations together with all operations necessary, incident or appurtenant thereto, or connected therewith whether conducted at such work places or elsewhere in connection therewith or in relation thereto; excepting, however, the remuneration of the President, and Vice-President, Secretary or Treasurer of this Employer, if a corporation, but including the remuneration of any one or more of such designated officers who are actually performing such duties as are ordinarily undertaken by a superintendent, foreman or workman. If any operations as above defined are undertaken by this Employer but are not described or rated in said Declarations, this Employer agrees to pay the premium thereon, at the time of the final adjustment of the premium in accordance with Condition C hereof, at the rates, and in compliance with the rules, of the Manual of Rates in use by the Company upon the date of issue of this Policy. At the end of the Policy Period the actual amount of the remuneration earned by employees during such period shall be exhibited to the Company, as provided in Condition C hereof, and the earned premium adjusted in accordance therewith at the rates and under the conditions herein specified. If the earned premium, thus computed, is greater than the advance premium paid, this Employer shall immediately pay the additional amount to the Company, if less, the Company shall return to this Employer the unearned portion, but in any event the Company shall retain the Minimum Premium stated in said Declarations. All premiums provided by this Policy, or by any endorsement hereon, shall be fully earned whether any such Workmen's Compensation Law, or any part of such, is now or shall hereafter be declared invalid or unconstitutional.

B. This Policy may be canceled at any time by either of the parties upon written notice to the other party stating when, not less than ten days thereafter, cancellation shall be effective. The effective date of such cancellation shall then be the end of the Policy Period. The law of any state, in which this Policy applies, which requires that notice of cancellation shall be given to any Board, Commission or other state agency is hereby made a part of this Policy and cancellation in such state shall not be effective except in compliance with such law. The remuneration of employes for the Policy Period stated in said Declarations shall be computed upon the basis of the actual remuneration to the date of cancellation determined as herein provided. If such cancellation is at the Company's request, the earned premium shall be adjusted pro rata as provided in Condition A. If such cancellation is at this Employer's request, the earned premium shall be computed and adjusted at short rates, in accordance with the table printed hereon, but such short rate premium shall not be less than the Minimum Premium stated in said Declarations. If this Employer when requesting cancellation is actually retiring from the business herein described, then the earned premium shall be computed and adjusted pro rata. Notice of cancellation shall be served upon this Employer as the law requires, but, if no different requirement, notice mailed to the address of this Employer herein given shall be a sufficient notice, and the check of the Company, similarly mailed, a sufficient tender of any unearned premium.

C. The Company shall be permitted, at all reasonable times during the Policy Period, to inspect the plants, works, machinery and appliances covered by this Policy, and to examine this Employer's books at any time during the Policy Period, and any extension thereof, and within one year after its final expiration, so far as they relate to the remuneration earned by any employes of this Employer while this Policy was in force.

D. The obligations of Paragraph One (a) foregoing are hereby declared to be the direct obligations and promises of the Company to any injured employee covered hereby, or, in the event of his death, to his dependents; and to each such employee or such dependent the Company is hereby made directly and primarily liable under said obligations and promises. This contract is made for the benefit of such employees or such dependents and is enforceable against the Company, by any such employee or such dependent in his name or on his behalf, at any time and in any manner permitted by law, whether claims or proceedings are brought against the Company alone or jointly with this Employer. If the law of any state in which the Policy is applicable provides for the enforcement of the rights of such employees or such dependents by any Commission, Board or other state agency for the benefit of such employees or such dependents, then the provisions of such law are made a part hereof, as respects any matter subject thereto, as fully as if written herein. The obligations and promises of the Company as set forth in this paragraph shall not be affected by the failure of this Employer to do or refrain from doing any act required by the Policy; nor by any default of this Employer after the accident in the payment of premiums or in the giving of any notice required by the Policy or otherwise; nor by the death, insolvency, bankruptcy, legal incapacity or inability of this Employer, nor by any proceeding against him as a result of which the conduct of this Employer's business may be and continue to be in charge of an executor, administrator, receiver, trustee, assignee, or other person.

E. As between the employee and the Company, notice to or knowledge of this Employer of an injury or death covered hereby shall be notice or knowledge as the case may be of the Company; the jurisdiction of this Employer for the purposes of any Workmen's Compensation Law covered hereby shall be jurisdiction of the Company and the Company shall in all things be bound by and subject to the findings, judgments, awards, decrees, orders or decisions rendered against this Employer in the form and manner provided by such laws and within the terms, limitations and provisions of this Policy not inconsistent with such laws.

F. This Employer, upon the occurrence of an accident, shall give immediate written notice thereof to the Company with the fullest information obtainable. He shall give like notice with full particulars of any claim made on account of such accident. If, thereafter, any suit or other proceeding is instituted against

this Employer, he shall immediately forward to the Company every summons, notice or other process served upon him. Nothing elsewhere contained in this Policy shall relieve this Employer of his obligations to the Company with respect to notice as herein imposed upon him.

G. No action shall lie against the Company to recover upon any claim or for any loss under Paragraph One (b) foregoing unless brought after the amount of such claim or loss shall have been fixed and rendered certain either by final judgment against this Employer after trial of the issue or by agreement between the parties with the written consent of the Company, nor in any event unless brought within two years thereafter.

H. If the method of serving notice of cancelation, or the limit of time for notice of accident or for any legal proceeding herein contained is at variance with any specific statutory provision in relation thereto, in force in the state in which any of the business operations herein described are conducted, such specific statutory provision shall supersede any such condition in this contract inconsistent therewith.

I. No assignment of interest under this Policy shall bind the Company unless the consent of the Company shall be endorsed hereon.

J. If this Employer carries any other insurance covering a claim covered by this Policy, he shall not recover from the Company a larger proportion of any such claim than the sum hereby insured bears to the whole amount of valid and collectible insurance.

K. The Company shall be subrogated in case of any payment under this Policy, to the extent of such payment, to all rights of recovery therefor vested by law either in this Employer or, in any employee or his dependents claiming hereunder, against persons, corporations, associations or estates.

L. No condition or provision of this Policy shall be waived or altered except by endorsement attached hereto signed by a duly authorized officer of the Company; nor shall notice to any agent, nor shall knowledge possessed by any agent, or by any other person, be held to effect a waiver or change in any part of this contract. The personal pronoun herein used to refer to this Employer or to an injured employee or dependents, shall apply regardless of number or gender.

M. The statements in Items 1 to 6 inclusive, in the Declarations herein-after contained, are true; those stated as estimates only are believed to be true. This Policy is issued upon such statements and in consideration of the provisions of the Policy respecting its premium and the payment of the premium in such Declarations expressed.

This space is intended for the attachment of such endorsements as may be executed as in the Policy provided, and, when so executed and attached, they are to be construed as a part of the Policy.

THE X Y COMPANY OF ———

[Name of state] Compensation Endorsement

Attached to and made a part of Policy No. ———

Issued to ———

The obligations of Paragraph One (a) of the Policy to which this endorsement is attached include such Workmen's Compensation Laws as are herein cited and described and none other.

——— [insert reference to statutes, by chapter, section numbers, etc.], and all laws amendatory thereof which may become effective while this Policy is in force.

This Employer, upon the acceptance of this Policy, agrees that at the effective date hereof he is bound by the above cited Workmen's Compensation Law

in full compliance with Section ——— thereof and will not file notice of withdrawal under the provisions of that section during the Policy Period.

This Employer, upon the acceptance of this Policy, agrees that the remuneration of employees of any contractor or sub-contractor, who undertakes for this Employer any part of the business operations covered by this Policy under the conditions set forth in Section ——— of such Workmen's Compensation Law, shall be included in the return of remuneration upon which premium is computed, and such remuneration, so reported, shall, in all respects, be governed by the same terms, conditions and requirements of the policy as the remuneration of the direct employees of this Employer. The requirements of this paragraph shall not apply if this Employer is not liable under said section or is exempted from such liability through compliance with its terms.

This Policy is issued by the Company and is accepted by this Employer with the agreement that the rates of premium are subject to modification in accordance with the rate manual and rating plans established by the ——— Compensation Inspection Rating Bureau and approved by the ——— Compensation Insurance Board, such modifications if any to be expressed by the endorsement naming the effective date thereof. If a rate promulgated by the Bureau is higher than the rate expressed in the Policy, this Employer shall be permitted to cancel the Policy on a pro rata premium basis, at the rate promulgated by the Bureau, at any time within fifteen days after the date of its promulgation, upon written notice of cancellation given to the Company in accordance with the provisions of Condition B of this Policy.

This endorsement takes effect upon issue, expires concurrently with the policy to which it is attached and is subject to all the conditions and provisions of said policy not inconsistent herewith.

In witness whereof, the X. Y. Company has caused this endorsement to be signed by its President and Secretary; but the same shall not be binding upon the Company unless countersigned by its Authorized Agent.

_____, Secretary.

_____, President.

Countersigned and issued at the office of the Company at _____, this _____ day of _____, 19—.

By _____, Resident Representative in Wisconsin.

DECLARATIONS

Item 1.	<p>Name of this Employer.....</p> <p>P. O. Address.....</p> <p>For the purpose of serving notice, as in the Policy provided, this Employer agrees that this address may be considered as both the residence and business address of this Employer or any representative upon whom notice may be served.</p> <p>Individual, co-partnership, corporation or estate?.....</p>
Item 2.	<p>The period during which the Policy shall remain in force, unless canceled as in the Policy provided (herein called the Policy Period), shall be from _____, 19—, to _____, 19—, at twelve and one minute o'clock A. M., standard time, as to each of said dates at the place where any operation covered hereby is conducted, as respects that operation, or at the place where any injury covered hereby is sustained, as respects that injury.</p>
Item 3.	<p>Locations of all factories, shops, yards, buildings, premises or other workplaces of this Employer, by Town or City, with Street and Number.....</p> <p>All business operations, including the operative management and superintendence thereof, conducted at or from the locations and premises defined above as declared in each instance by a disclosure of estimated remuneration of employees under such of the following Divisions as are undertaken by this Employer. 1 All industrial operations upon the premises. 2 All office forces. 3 All repairs or alterations to premises. 4 Specially rated operations on the premises. 5 Operations not on the premises.</p>

CLASSIFICATION OF OPERATIONS (NOTE: If more than one classification indicate each other by (b), (c), (d), etc.)		Estimated Total Annual Remuneration	Rate per \$100 of Remuneration	Estimated Premium
1 (a) (x) President, any Vice-President, Secretary or Treasurer of corporate Employer who performs duties of Superintendent, Foreman or Workman.				
2 (a) Clerical Office Employees 8810 (b) Draughtsmen (engaged exclusively in the profession)—office duties only 8811				
3 (a) Additions to, alterations and repairs of Employer's existing buildings or plants (not construction of new building nor maintenance of equipment covered as manufacturing operations) excluding the erection or demolition of structural steel or of any fabricated iron or steel products or structure, and the construction of sewers, tunnels, shafts or subways, excluding also all operations conducted or supervised by contractors operating either as principals or on a percentage basis (unless specifically classified and rated in Division 1) 5002				
4 (a) Stamping—metal (if not included in 1) 3210 (b) Blasting (Additional Minimum Premium for this item \$25.00) 6280 (c) Railroads (used solely for declared business operations) 7102				
5 (a) Erection, installation, repair or demonstration of Employer's product, as follows: [manual classification]. (b) Outside Salesmen, collectors and messengers (wherever engaged) who do not deliver merchandise 8742 (c) Drivers and Drivers' Helpers (if not included in 1) wherever engaged 7205 (d) Chauffeurs and Chauffeurs' Helpers (if not included in 1) wherever engaged 7380				
Minimum Premium for this Policy shall be \$.....				
Estimated Advance Premium \$.....				
Item 4.	The foregoing enumeration and description of employees include all persons employed in the service of this Employer in connection with the business operations above described to whom remuneration of any nature in consideration of service is paid, allowed or due together with an estimate for the Policy Period of all such remuneration. This enumeration and description with the estimated remuneration shall also include the President, any Vice-President, Secretary or Treasurer of this Employer if a corporation if actually performing such duties as are ordinarily undertaken by a superintendent, foreman or workman, but any such designated officer not so engaged shall not be included in such enumeration, description or estimated remuneration. The foregoing estimates of remuneration are offered for the purpose of computing the advance premium. The Company shall be permitted to examine the books of this Employer at any time during the Policy Period and any extension thereof and within one year after its final termination so far as they relate to the remuneration earned by any employee of this Employer while the Policy was in force.			
Item 5.	This Employer is conducting no other business operations at this or any other location not herein disclosed—except as herein stated:.....			
Item 6.	No similar insurance has been canceled by any insurance carrier during the past year—except as herein stated:.....			

In witness whereof, etc.

The X. Y. Company.

See references under § 3870.

§ 3882. Burglary policy.

The X. Y. Company of ———, herein called the company, in consideration of ——— dollars premium, and of the statements contained in the Schedule attached hereto and hereby made a part hereof, which statements the Assured makes on the acceptance of this Policy and warrants to be true, does hereby agree to indemnify A. B., of ———, County of ———, State of ———, herein called the Assured, in the total sum of ——— dollars (\$———), and no more, for the term of ——— months, beginning on the ——— day of ———, 19—, at noon, and ending on the ——— day of ———, 19—, at noon, Standard time, subject to the following Special and General Agreements which are to be construed as co-ordinate as conditions and precedent to any recovery hereunder.

RESIDENCE THEFT RIDER—SCHEDULE

1. Name of Assured ———
2. Location of the building ——— [street and number]; ——— [city or town]; ——— [state].
3. There is a regular day and night police force in the city or town of ——— men.
4. The building is fully described as follows ——— [state whether private residence, boarding house, non-housekeeping apartment house or flat house.]
5. The part of the building occupied by the Assured and defined herein as the premises is ——— [state whether entire house or apartment or flat, and on which floor].
6. If an apartment or flat house, there is a regular front door, hall or elevator attendant, except as follows: ———.
7. The premises as defined in this Policy are not used in whole or in part as a boarding house or lodging house, nor by any physician, surgeon, oculist or dentist for the reception or treatment of patients except as follows: ———.
8. The business address of the Assured is ———.
9. The occupation of the Assured is ———.
10. The Assured has no burglary, theft or larceny insurance, has never been refused any and has applied for none except as follows: ———.
11. The Assured has not sustained any loss nor received indemnity for any loss by burglary, theft or larceny except as follows: ———.
12. The insurance granted by this Policy attaches specifically as stated below in Items a, b and c and subject to such limits, the total amount of insurance and the total liability of the Company hereunder is limited to \$———.

a \$———On Money (subject to the limits as specified in special agreement B 2). Watches, Jewelry, Precious Stones, Sterling Silver, Wearing Apparel, Furs, Laces, Plated Ware, Rugs, Tapestries, Curtains, Shades, Beds, Bedding, Linen, Engravings, Etchings, Paintings, Fixtures, Books, Bronzes, Statuary, Clocks, Bric-a-Brac, Articles de Vertu, China, Crockery, Glassware, Lamps, Cameras, Sporting Outfit, Musical and Professional Instruments, Furniture, Mirrors, Carpets, Fixtures for Plumbing, Gas, Water and Electricity and other Personal Effects common in residences generally, but excluding Fuel, Wines, Liquors and Family Stores, and also excluding articles mentioned in Items b and c.

Premium \$———

b \$———On articles in the said premises, specifically insured as follows:

.....
.....

Premium \$———

c \$———On

.....
.....

Premium \$———

Total Premium \$———

Attached to and forms part of policy No. B——— of the X. Y. Company of ———, Agent.

For direct loss by burglary, theft or larceny of any of the property of the Assured, described in the said schedule and stated therein to be insured hereunder, occasioned by its felonious abstraction from the interior of the house, building, apartment or rooms actually occupied by the Assured, also described in the said schedule, and hereinafter called the premises, by any domestic servant or other employe of the Assured or by any other person or persons excepting any person whose property is insured hereunder; and for direct loss by damage to the said property and to the said premises caused by burglars or thieves.

Special Agreements

A. (1) It is understood and agreed that for the purpose of this insurance, property belonging to any permanent member of the household of the Assured who does not pay board or rent, excepting domestic servants or other employes, or property belonging to a relative of the Assured permanently residing with him, is deemed to be the property of the Assured. In the event of claim for loss of such property, the release of either the Assured or the actual owner of the property shall relieve the Company from all further liability. (2) Premises within the meaning of this Policy is limited as follows:—If the Assured occupies the entire building designated in the schedule, the term is limited to the interior of the said building excluding porches and areaways; if the Assured occupies only a part of the said building, the term is limited to the interior of the room or rooms actually occupied by the Assured on the floor designated in the schedule and excludes entrances, halls and stairways. (3) The premises shall be deemed to be unoccupied when neither the Assured nor a member of his household is actually in the premises.

B. The Company shall not be liable for any loss:—(1) If the premises are left without an occupant for more than four months unless written permission for a further period of non-occupancy is endorsed hereon or attached hereto; but in no event shall the liability of the Company hereunder exceed One Hundred Dollars (\$100.00) for loss of jewelry, precious stones or watches, occurring in the premises during any period of non-occupancy exceeding eighty-four (84) consecutive hours whether such loss occurs within the period of eighty-four (84) consecutive hours or not. (2) Of money in excess of five per cent. of the amount of insurance granted under Item a of Statement 12 of the schedule but in no event in excess of Fifty Dollars (\$50.00). (3) Of coin and stamp collections unless the same are specifically insured under Item b of Statement 12 of the schedule. (4) Of securities for money. (5) Unless the Assured shall produce direct and affirmative evidence that the loss of the articles for which claim is made was due to the commission of a burglary, theft or larceny; the disappearance of said articles not to be deemed such evidence.

C. While the premises are unoccupied within the meaning of this policy, and mechanics or other work people are admitted into the premises for the purpose of painting, papering, renovating or making any alterations or changes of any nature in the premises, the Company shall not be liable under this policy for any loss unless such loss is occasioned by a person or persons who have made felonious entry into the premises by force and violence, of which there shall be visible marks made by tools or explosives, upon the premises.

D. If the Assured is the occupant of an apartment or flat house, this insurance covers in amount of five per cent. of the amount of insurance granted under Item a of Statement 12 of the schedule, but in no event in excess of Fifty Dollars (\$50.00), in a locked storeroom in the same house provided by the landlord and used exclusively by the Assured.

GENERAL AGREEMENTS

1. The Assured upon the discovery of any loss covered under this Policy or any attempt to effect such loss shall, at the expense of the Company, give immediate notice thereof by telegraph to the Company at its Home Office in —, or to the nearest Agent of the Company, and shall also give immediate notice thereof to the public police authorities having jurisdiction.

2. Affirmative proof of loss under oath must be furnished to the Company at its Home Office in _____, within sixty days from the date of the discovery of the loss. Such proof of loss shall contain a complete inventory of all of the property stolen or damaged, giving the names of the persons from whom and the dates when purchased, together with the original cost thereof and the actual cash value of each article at the time of the loss and the amount of loss thereon; a statement in detail of the damages done to the property of the Assured; a statement as to the ownership of the articles or property for which indemnity is claimed and clearly defining the interest of the Assured in such articles or property, if any; a statement in detail of the knowledge and belief of the Assured as to the manner in which the loss was sustained and the date of its occurrence; a statement in detail of all other concurrent or similar insurance, whether valid or not, on the property insured; and the purposes for which and the persons by whom the premises described herein were occupied at the time of the loss. The delivery or withholding of any form by the Company or its receipt or retention by the Company or any act of the Company or of its representatives in the investigation of any claim shall not be a waiver of any of its rights. Upon the presentation of any claim under this Policy, the Assured shall produce, at the request of any representative of the Company, any and all books, papers and vouchers bearing in any way upon the claim, and shall submit himself and his associates in interest and his employees and the members of his household, when and as often as may be required by the Company to examination and interrogation under oath by the representatives of the Company, and such examination and interrogation, when reduced to writing, shall be signed and sworn to if required.

3. In the event of disagreement as to the amount of loss, the same shall be ascertained by two competent and disinterested appraisers, the Assured and the Company each selecting one, and the two so chosen shall first select a competent and disinterested umpire. The appraisers together shall then estimate and appraise the loss, and, failing to agree, shall submit their differences to the umpire; and the award in writing of any two shall determine the amount of such loss. The parties thereto shall pay the appraiser respectively selected by them and shall bear equally the expense of the appraisal and umpire. The Company shall not be held to have waived any provision or condition of this Policy, or any forfeiture thereof by any requirement, act or proceeding on its part relating to the appraisal or to any examination herein provided for.

4. No suit shall be brought under this Policy until three months after the Proof of Loss has been furnished as required herein, nor at all unless begun within twelve months after the occurrence of the loss. If any limitation set forth in this Policy is prohibited by the statutes of the state in which this Policy is issued, the said limitation shall be considered to be amended to agree with the minimum period of limitation permitted by such statutes.

5. All sums which, from time to time, may be paid or expended by way of indemnity under this Policy shall be accounted in diminution of the insurance hereunder. The Company may repair any damage to property and it may replace any damaged or stolen article with one of like quality and value instead of paying for the same in money. Any article for which the Assured has been indemnified by payment or replacement shall belong to the Company if recovered, but the Assured shall be entitled to it upon payment to the Company of the amount of indemnity paid or the cost to the Company of its replacement. If any stolen article is returned to the Assured or recovered by the Assured, the same shall be reported to the Company immediately and the amount of indemnity received therefor shall be returned to the Company by the Assured, unless the Company elects to receive the article so recovered.

6. If the Assured carry other insurance, whether valid or not, against loss for which indemnity is provided hereunder, the Company shall be liable only for its pro rata share of any such loss. The Company shall be subrogated to the extent of its interest to any claims and rights of the Assured against any third party in respect to any loss that may occur hereunder and the Assured shall execute all papers necessary for this purpose.

7. The Company, if it so elects, shall have entire charge of the prosecution of any person or persons concerned directly or indirectly in effecting a loss

hereunder. The Assured shall give to the Company all reasonable assistance in legal proceedings.

8. The Company shall not be liable: (a) For an amount in excess of the actual or market value at the time of the loss; (b) For damage to property or premises unless they belong to the Assured or the Assured is legally liable for the damage; (c) For damage to window or skylight glass, plate glass or lettering or signs thereon; (d) If the premises are occupied by the Assured for any purpose other than that stated in the schedule; (e) For loss or damage unless the Assured shall have used all reasonable care to protect the premises and the property insured against said loss or damage; (f) For loss from or contributed to by explosives (except only when used or caused by burglars or robbers), water, invasion, insurrection, strike, riot, war, the act of any civil, military or usurping power or the action of the elements; (g) For loss or damage from, contributed to by, or occurring during a fire or an alarm of fire in the building in which the premises are located.

9. The Assured shall grant the Company's officers or representatives the right to inspect the premises at such times as they may deem needful; any such officer or representative may require the Assured to make the premises secure and may suspend the insurance under this Policy as respects the entire risk or as respects any part thereof by a written notice served on the Assured, or mailed to the Assured at the location of the building described in the Schedule. Reinstatement of the insurance in any case must be in writing signed by a duly authorized representative of the Company. The return premium computed pro rata for the period of suspension will be paid to the Assured on demand.

10. This Policy may be cancelled at any time by notice in writing to the Assured stating specifically when the cancellation shall be effective. It may also be cancelled by the Assured by like notice in writing to the Company provided the premium shall have been paid. If cancelled on the Company's motion, the Company shall pay or tender to the Assured the unearned premium pro rata. If cancelled at the request of the Assured, the Company shall retain the customary short rate premium and return the balance to the Assured, but in no case shall the earned premium be less than Five Dollars. The check of the Company or of its Agent mailed to the business address of the Assured or to the location of the premises as given herein shall be sufficient tender.

11. This Policy shall be void if the conditions or circumstances of the risk are changed without the written consent of the Company or if the Assured attempts in any way to defraud the Company or if the Policy is assigned without the written consent of the Company.

12. No condition or provision of this Policy shall be waived or altered by any one unless by written consent of an Officer of the Company at its Home Office and endorsed hereon or attached hereto; nor shall notice to any Agent, nor shall knowledge possessed by any Agent or by any other person be held to effect a waiver or change in this contract or any part of it.

13. In any matter relating to this insurance, no person shall be deemed an Agent of the Company who is not duly authorized in writing.

In witness whereof, etc.

_____, President,
_____, Secretary.

See references under § 3870.

§ 3883. Lease of realty.

This lease witnesses, that A. B. hereby leases to C. D. the premises situate in the _____ of _____, in the County of _____ and State of _____, described as follows _____ [insert description], with the appurtenances thereto, for the term of _____, commencing _____, 19____, at a rental of _____ dollars per _____, payable _____.

Said lessee agrees to pay said rent, unless said premises shall be destroyed or rendered untenable by fire or other unavoidable accident; to not commit or suffer waste; to not use said premises for any unlawful purpose; to not assign this lease, or under-let said premises, or any part thereof, or permit the

sale of — interest herein by legal process, without the written consent of said lessor; and at the expiration of this lease, to surrender said premises in as good condition as they now are, or may be put by said lessor—, reasonable wear and unavoidable casualties, condemnation or appropriation excepted. Upon non-payment of any of said rent for — days, after it shall become due, and without demand made therefor; or the breach of any of the other agreements herein contained, the lessor— may terminate this lease and re-enter and re-possess said premises.

Said lessor— agrees (said lessee— having performed — obligations under this lease) that said lessee— shall quietly hold and occupy said premises during said term without any hindrance or molestation by said lessor—, his heirs or any person lawfully claiming under them.

Signed this — day of —, A. D. 19—.

In presence of —:

.....	
.....	
.....	

[Certificate of acknowledgment if necessary.]

For use and occupation under informal leases, see § 1491.
 For subsequent legislation as affecting validity of lease, see § 2698.
 For the effect of war, see § 2742.
 For damages, see §§ 3232 et seq.
 For injunction, see §§ 3384, 3385.
 For cancelation, see §§ 3409 et seq.

§ 3884. Lease of realty.

This lease witnesses that A. B., Lessor—, in consideration of the rents and covenants hereinafter stipulated to be paid and performed by C. D., the lessee— and his assigns, does hereby grant, demise and lease unto the said lessee—, his executors, administrators and assigns, the following described premises, to-wit: — [insert description], to have and to hold the same, with the appurtenances, unto the said lessee—, executors, administrators and assigns, for and during the full term of —, next ensuing from the — day of —, in the year of our Lord nineteen hundred and —, and to be fully completed and ended on the — day of —, in the year of our Lord 19—, yielding and paying therefor, during the said term, — [insert amount of rent, time of payment, etc.].

And said lessee—, for himself and for his executors, administrators and assigns, does hereby covenant and agree with said lessor—, his heirs and assigns, that he will pay said rents in manner aforesaid, unless said premises shall be destroyed or rendered untenable by fire or unavoidable accident; that he will not do or suffer any waste therein, nor use said premises for any unlawful purpose, nor assign this lease, nor underlet said premises, nor any part thereof, without the written consent of said lessor—, and that at the end of said term he will deliver up said premises in as good order and condition as they now are, or may be put by said lessor—, reasonable use and ordinary wear and tear thereof, and damage by fire and other unavoidable casualty, condemnation or appropriation excepted; and further, that for the said rents — to be paid by said lessee— and assigns, a lien is hereby reserved upon the premises hereby leased, and the interest of said lessee— and assigns in and to the same, in favor of said lessor—, his heirs and assigns, prior and preferable to any and all other liens thereupon whatsoever.

Provided, however, that if said rent, or any part thereof, shall remain unpaid for ——— days after it shall become due, and without demand made therefor; or if said lessee— shall assign this lease, or underlet said leased premises, or any part thereof, or if said lessee's interest therein shall be sold under execution or other legal process, without the written consent of said lessor—, his heirs or assigns, first had; or if said lessee— or assigns shall fail to keep any of the other covenants of this lease, it shall be lawful for said lessor—, his heirs or assigns, into said premises to re-enter, and the same to have again, re-possess and enjoy, as in first and former estate; and thereupon this lease and everything herein contained on the said lessor— behalf to be done and performed, shall cease, determine, and be utterly void.

And said lessor—, for himself and for his heirs, executors, administrators and assigns, covenants and agrees with the said lessee—, his executors and administrators, that said lessee— paying the rents, and observing and keeping the covenants of this lease on his part to be kept, shall lawfully, peaceably and quietly hold, occupy and enjoy said premises, during said term, without any let, hindrance, ejection or molestation by said lessor—, or his heirs, or any person or persons lawfully claiming under them.

In witness whereof, the said lessor— and lessee— have hereunto set their hands on the ——— day of ———, in the year of our Lord nineteen hundred and ———.

Signed and acknowledged in presence of:

.....	
.....	
.....	

[Certificate of acknowledgment if necessary.]

See references under § 3883.

§ 3885. Lease with option to purchase, renewable forever.

This lease, made this ——— day of ———, A. D. 19—, between A. B., lessor—, and C. D., lessee—,

WITNESSES, that said lessor—, for and in consideration of the rents herein reserved, and covenants and agreements hereinafter contained, and by the said lessee—, his heirs, executors and assigns, to be paid and performed, do— hereby grant, lease and demise unto the said lessee—, his heirs, executors, administrators and assigns, all the following described real estate, to-wit: ——— [insert description], to have and to hold the same, together with the privileges and appurtenances thereunto appertaining and belonging, unto the said lessee—, his heirs, executors, administrators and assigns, for and during the full term of ———, next ensuing from the ———, fully to be completed and ended, and renewable forever ———, the said lessee—, his heirs, executors, administrators and assigns, yielding and paying therefor, yearly, and every year during ——— this demise, the sum of ——— dollars, payable ———.

And the said lessee—, for himself and for his heirs, executors, administrators and assigns, do— hereby covenant and agree to and with the said lessor—, his heirs and assigns, that he will well and truly pay unto the said lessor—, his heirs and assigns, the yearly rent above reserved, at the days and times, and in the manner above specified; and further, that he will, in addition to the rent aforesaid reserved, pay all taxes, rates, charges and assessments that may at any time during this demise be levied, rated, charged or assessed on said premises,

or on any part thereof, for any purpose whatsoever; and that for the better securing the payment of said rents, and the performance of the covenants herein contained, by the said lessee— to be kept and performed, the said lessor —, his heirs and assigns, shall have a first lien, paramount to all others, upon every right and interest of the said lessee— to or in the above-described premises; and further, that said lessee—, his heirs and assigns, will not commit or suffer any waste upon said premises, and that he will, at the expiration of said term, or upon the determination of this lease, peaceably and quietly deliver up said premises to the said lessor —, his heirs or assigns.

And the said lessor — for himself and for his heirs, executors, administrators and assigns, further covenant— and agree— to and with the said lessee—, his heirs and assigns, that (all rents, taxes and assessments being paid, and all covenants being performed by said lessee—, as herein stipulated) said lessor — will, at any time after the expiration of —, and during the continuance of this lease, or of any renewal thereof, convey the said premises to said lessee—, —, heirs and assigns, by a good and sufficient deed of — warranty, with release of dower, upon the payment to — by said lessee—, his heirs or assigns, of the sum of —.

And the said —, for — heirs and assigns, do— further covenant and agree —.

Provided, however, and these presents are upon these express conditions, that if, at any time during this demise, the rent aforesaid reserved, or any part thereof, shall be in arrear, or unpaid, in all or in part, for the space of — days after the same shall have become due and payable, and after demand of payment made personally or or said premises, which demand of payment shall be equally good and effectual whether made on the day of payment or at any time afterward; or, if the said lessee—, his heirs, executors, administrators or assigns, shall fail to pay all taxes, rates, charges and assessments that may at any time during this demise be levied, rated, charged or assessed on said premises, as the same may be required, or if said lessee—, his personal representatives, heirs and assigns, shall fail faithfully to keep and perform any other covenant or agreement herein contained, and by him or them to be kept and performed, that then, or in either such case, this lease shall cease, determine and be void; and it shall and may be lawful for the said lessor—, his heirs, executors, administrators or assigns, to enter upon the said premises, with the appurtenances, or any part thereof, in the name of the whole, and the same to occupy and possess as though this demise had not been made, and the said lessee—, his heirs and assigns, and all others claiming under him or them, from thence utterly to expel, remove and put out, anything in these presents contained to the contrary thereof notwithstanding.

And the said lessor—, for himself and for his heirs and assigns, does hereby covenant and agree to and with the said lessee—, his heirs and assigns, that, upon the payment of the rents and the performance of the covenants aforesaid, said lessee— shall and may peaceably and quietly have and enjoy the aforesaid premises, with the appurtenances, for and during the term aforesaid, free from any let or hindrance by said lessor—, his heirs or assigns, or any other person or persons whatsoever.

In witness whereof, etc.

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[Certificate of acknowledgement if necessary.]

See references under § 3883.

§ 3886. Lease—Renewal clause.

Failure of lessee to give lessor written notice ninety days in advance of the expiration of this lease, of a desire to cancel or renew same, shall be considered as evidence that said lessee desires to continue said lease in full force and effect for one year from and after the date of its expiration and be accordingly bound.

Such a renewal clause does not amount to a covenant to make a new lease; but it extends the original lease. The lessor can not, therefore, insist that the lessee execute a new lease containing a similar renewal clause. *Mecklenburg Real Estate Co. v. Kyoleum Co.*, 142 Tenn. 295, 14 A. L. R. 944, 218 S. W. 821.

See references under § 3883.

§ 3887. Oil and gas lease.

This agreement made by and between A. B., of ——— County, State of ———, of the first part, and C. D., of ——— County, State of ———, of the second part,

WITNESSETH, that for and in consideration of the rents and royalties, hereinafter specified, the party of the first part has and does hereby grant and lease to the party of the second part, with covenant of general warranty, the exclusive right of searching for and producing petroleum and natural gas, with the rights necessary and convenient to do these things; and the right to assign, sublet and subdivide a certain tract or parcel of land situated in ——— Township, ——— County, State of ———, bounded and described as follows: North by lands of ———; east by lands of ———; south by lands of ———; west by lands of ———, containing ——— acres, more or less.

To have and to hold the premises for the term of ——— years from this date, and so much longer as oil or gas can be produced in paying quantities, or rent or royalty is paid.

The second party agrees:

1. To deliver to the first party in tanks or pipe lines the one ——— part of all the oil produced and saved on these premises.

2. If gas is found in paying quantities and utilized away from this ——— to pay party of the first part ——— dollars per annum for the gas from each well so used.

3. To conduct operations so as to interfere least with farming privileges.

4. To drill no well within ——— feet of the buildings on these premises except by consent of the first party.

5. To begin operations in the block, of which this property is a part, within ——— from this date, unavoidable accidents excepted, and to begin operations on this property within ——— from the completion of the test wells. And failure to drill said wells shall operate a forfeiture and cancellation of this lease, unless the lessee shall thereafter pay a rental of ——— per acre per year, until a well is so begun or he elects to surrender this lease.

The second party may at his option pay any rental monthly. This block, of which this is a part, being the block of ——— acres in ——— Township, ——— County, State of ———.

Second party shall have use of water and gas for necessary machinery, and the right to lay pipe lines for water and gas on and across said premises; also the right to remove any machinery or fixtures placed on the premises by ———, and may at any time surrender this lease and be released from all liability thereunder.

All conditions and covenants herein shall extend to the heirs, successors or assigns of the parties thereto.

All erasures or interlineations made before signing.

In witness whereof, etc.

[Certificate of acknowledgement if necessary.]

§ 3888. Oil and gas lease.

Made and entered into this _____ day of _____, by and between A. B., of the _____, County of _____, State of _____, party of the first part, and C. D., of the _____, County of _____, State of _____, party of the second part:

WITNESSES, that the party of the first part, for and in consideration of the sum of one dollar to him in hand well and truly paid by the said party of the second part, the receipt of which is hereby acknowledged, and of the covenants and agreements hereinafter contained on the part of the said party of the second part to be paid, kept, and performed, has granted, demised, leased and let, and by these presents do grant, demise, lease, and let, unto the party of the second part, its successors and assigns, for the sole and only purpose of mining and operating for oil, gas, and laying pipe lines, and of building tanks, stations, and structures thereon to take care of said products, all that certain tract of land, situated in the County of _____, State of _____, bounded and described as follows: _____ [insert description], reserving, however, therefrom one hundred feet around the buildings, on which no wells shall be drilled by either party, except by mutual consent.

It is agreed that this lease shall remain in force for the term of _____ years from this date, and as long thereafter as oil or gas, or either of them, is produced therefrom by the party of the second part, its successors or assigns.

In consideration of the premises, the party of the second part covenants and agrees, first, to deliver to the credit of the party, his heirs and assigns, free of cost, in pipe line to which it may connect its wells, the equal one-eighth part of all oil produced and saved from the leased premises; and, second, to pay one-eighth of all the gas from each and every well drilled on said premises, the product from which is marketed and used off the premises, said payments to be made from each well within _____ days after commencing to use the gas therefrom, as aforesaid, and to be paid yearly thereafter while the gas from said well is used.

Second party covenants and agrees to locate all wells so as to interfere as little as possible with the cultivated portions of the farm, and, further, to commence operations on said premises within _____ months from date thereof, or pay at the rate of _____ dollars quarterly in advance for each additional _____ months such operation is delayed until such a well is completed, and it agrees that the completion of such a well shall be and operate as a full liquidation of all rental under this provision during the term of this lease.

It is agreed that the second party is to have the privilege to use sufficient water from the said premises to run all necessary machinery and fixtures placed on said premises, and, further, upon payment of _____ dollars, at any time by the party of the second part, its successors or assigns, to the party of the first part, his heirs and assigns, said party of the second part, its successors or assigns, shall have the right to surrender this lease for cancellation, after which all payments and liabilities thereafter to accrue under and by virtue of its terms shall cease and terminate, and this lease becomes absolutely null and void.

In witness whereof, etc.

This is said to be a form in which ingenuity is exhausted in seeking to form a contract which shall have no mutuality of obligation and still be valid. It was held by a divided court that, in spite of the omission of a covenant to complete a well in a given time, failure to commence operations and to proceed in a reasonable manner defeated the contract, if it was a contract and not an option. *Jennings-Heywood Oil Syndicate v. Houssiere-Latreille Oil Co.*, 119 La. 793, 44 So. 481, 506.

§ 3888-1. Oil, gas and mineral mining lease.

Agreement made and entered into — by and between A. B., of the — County of — and State of —, Trustee, of —, hereinafter called lessor (whether one or more), and C. D., of the — County of —, State of —, hereinafter called lessee,

WITNESSETH, that the said lessor, for and in consideration of one dollar, cash in hand paid, receipt of which is hereby acknowledged, and of the covenants and agreements hereinafter contained on the part of lessee to be paid, kept, and performed, has granted, demised, leased, and let, and by these presents does grant, demise, lease and let, unto the said lessee for the purposes of mining any and all minerals in their entirety, and operating for oil and gas, and laying pipe lines, and building tanks, towers, stations, and structures thereon to produce, save, and take care of said products, all that certain tract of land situated in the County of —, State of —, described as follows, to-wit:

Bounded on the north by the lands of —; bounded on the east by the lands of —; bounded on the south by the lands of —; bounded on the west by the lands of —, and containing — acres, more or less.

It is agreed that this lease shall remain in force for a term of five (5) years from this date, and as long thereafter as any mineral, oil, or gas, or any of them, is produced from said land by the lessee.

In consideration of the premises, the said lessee covenants and agrees:

(1) To deliver to the credit of lessor, free of cost in the pipe line, barrels, or tanks, to which he may connect his wells, the equal one-eighth part of all oil produced and saved from leased premises.

(2) To pay the lessor one hundred dollars each year in advance, for the gas from each well where gas only is found, while the same is being used off the premises, and lessor to have gas free of cost from any such well for all stoves and all inside lights in the principal dwelling house on said land during the same time by making his own connections with the wells at his own risk and expense.

(3) To pay lessor for gas produced from any oil well and used off the premises at the rate of one-eighth royalty for the time during which such gas shall be used.

(4) To pay to the lessor for all minerals other than oil and gas, when mined and return sales are made to the lessee, ten cents per ton or such royalties per ton, as are customarily paid in the State of —; this payment to be made in lieu of rentals, as in case of oil or gas.

Lessee agrees to begin a well upon said premises within One Year from this date, unavoidable accidents and delays excepted, or thereafter pay to lessors rentals as hereinafter provided until a well is completed or the property hereby granted is re-conveyed to lessors.

Lessee shall have the right to use, free of cost, gas, oil and water produced on said land for its operation thereon, except of water from wells of lessor.

When requested by the lessor, lessee shall bury his pipe lines below plow depth.

No well shall be drilled nearer than 200 feet to the house or barn now on said premises, without the written consent of the lessor.

Lessee shall pay for damages caused by his operations to growing crops on said lands.

Lessee shall have the right at any time to remove all machinery and fixtures placed on said premises, including the right to draw and remove casing.

In the event a well has not been begun on the premises within one year from date hereof (unavoidable accidents and delays excepted), the lessee may thereafter pay a yearly rental of ten cents per acre, payable quarterly in

advance until a well is completed, which payments for delay in completing well may be made direct to — or deposited to — credit in the — Bank — which payments shall fully and completely extend this lease from time to time until a well is completed, and lessors agree to accept said payments of rentals when made and to mail receipts for same to lessee.

It is agreed that all the terms and conditions hereof shall extend and apply to the heirs, executors, administrators and assigns of the parties above mentioned.

In witness whereof, etc.

§ 3889. Contract for lease of chattel with the right to purchase.

This contract made this — day of —, 19—, between A. B., of —, of the first part, and C. D., of —, of the second part:

WITNESSES, that the party of the first part, in consideration of the compensation and conditions hereinafter named, has this day let to the party of the second part, — [insert description of property], for and during the term of — from the date hereof. And the said party of the second part, in consideration of the use of said — [describe property] during said term, agrees to pay as rent, without demand, to the said A. B., at his office, in —, the sum of — dollars in cash, and — dollars on the — day of each and every month thereafter, during said term, that is to say: — [insert times and amounts of payments].

Said money may be remitted to the said A. B., by express, draft, post office order, or registered letter.

And the party of the second part agrees with the party of the first part, that he has received said — [describe property] in good order and condition; and that at the end of said term, or upon the termination of this lease, as hereinafter provided, he will deliver up the possession of said — [describe property] to the party of the first part, in as good condition as when the same was received, ordinary wear excepted.

It is further agreed, by the party of the second part, that he will not assign this lease, nor underlet the said — [describe property], nor remove, nor permit the same to be removed, from his present place of business, without the written consent of the party of the first part.

It is further agreed, that if the party of the second part shall fail to pay said hire, or any part thereof, on the day on which the same shall be due, or if default be made in any of the conditions or agreements herein contained, to be kept and performed by the party of the second part, then this bailment shall terminate and be ended at the option of said party of the first part, his agent or agents; it being hereby agreed, that the extension of any of the said payments, or the waiver of the breach of any of the said conditions, shall not in any manner impair or forfeit the rights of the party of the first part hereunder; and it is further agreed, that the said A. B., his agent or agents, may, without process of law, take possession of said — [describe property], and for that purpose may enter any of the premises of the said party of the second part, to search for, or obtain said — [describe property], using such force as may be necessary in so doing, and the party of the second part thereby waives any trespass, or any right of action for damages which he might or could have against the party of the first part, or his agents, by reason of the party of the first part, or his agents, procuring or attempting to procure possession of said — [describe property] after forfeiture as aforesaid.

And it is further agreed, that the party of the second part, without default, paying the said hire, and keeping and performing all the said conditions and

agreements, shall at any time during said term, have the privilege of purchasing said — [describe property] for the sum of — dollars; and the amount theretofore paid by the party of the second part, as hire hereunder, shall be applied in liquidation of said purchase price. But it is expressly understood, that the property in the said — [describe property], and the title to the same, remains in the said A. B., subject to be divested only by the exercise, by the party of the second part, of the privilege of purchase, according to the terms of this agreement.

In witness whereof, etc.

For forms of sale of personalty, see §§ 3913 to 3921.
For other forms of option, see §§ 3910, 3911 and 3912.

§ 3890. Literary property—Contract between publisher and author for sale of manuscript, before copyright.

This contract entered into this — day of —, 19—, by and between A. B., of —, party of the first part, and The C. D. Company, a corporation duly organized under the laws of —, party of the second part, WITNESSES:

That said party of the first part, in consideration of the promises and agreements of said party of the second part herein contained, hereby sells, assigns, transfers and sets over unto said party of the second part the manuscript of a certain literary work of which he is the author and proprietor, entitled —, together with all the literary property, right, title and interest in and to said literary work, and all profit, benefit and advantage to be derived from printing, publishing and vending the same, hereby granting unto said party of the second part full power and authority to enter said literary work for copyright, and to apply for and receive the renewal and extension of said copyright, under the provisions of the laws of the United States.

Said party of the first part further promises and agrees, upon the consideration aforesaid:

1. To prepare a full index to said literary work and to deliver said manuscript and index to said party of the second part on or before —, 19—, said manuscript and index to be of sufficient length to constitute a book of between — and — printed pages, of type and arrangement similar to a book entitled, —.

2. To superintend the printing of said work and to correct the proof thereof. In consideration whereof said party of the second part hereby promises and agrees:

1. To pay to said party of the first part the sum of — dollars (\$—) as follows; — \$— cash in hand, the receipt of which is hereby acknowledged; \$— when said manuscript and index are delivered to said party of the second part as hereinbefore provided; and the balance of \$— when the proof of said work has been corrected and returned to the printer by said party of the first part.

2. To deliver to said party of the first part, free of cost, — copies of said book.

It is mutually agreed by and between the parties hereto on the considerations aforesaid that if said book when printed shall contain less than the number of pages above specified, then said purchase price shall be reduced in proportion to the number of pages short.

In witness whereof, etc.

For assignment of rights, see §§ 3789 and 3790.

§ 3891. Contract between publisher and author for publication of work, on royalty.

This contract entered into at —, this — day of —, 19—, by and between A. B., of —, party of the first part, and C. D., party of the second part, WITNESSES:

That, whereas, said party of the first part has in preparation, as author, a literary work entitled, —, for the publication of which both parties hereto desire to provide.

Now therefore, said party of the first part, in consideration of the promises and agreements of said party of the second part herein contained, hereby promises and agrees:

To complete the manuscript of said literary work and deliver the same to said party of the second part on or before —, 19—; said manuscript to be of sufficient length to constitute a book of between — and — printed pages, of type and arrangement similar to a book entitled, —.

To superintend the printing of said work, and to correct the proof thereof. (If the author is to be relieved from proof reading, this covenant may be inserted as one of the covenants on the part of the party of the second part.)

In consideration whereof, said party of the second part hereby promises and agrees:

To obtain a copyright of said literary work in due form of law; (if copyright is to be taken in the name of the author, the following clause may be inserted among the covenants of the party of the first part: The said party of the first part furthermore agrees to take out a copyright upon said work and to license the party of the second part to publishing said work under said copyright).

To stereotype, print, bind, manufacture and publish said literary work in the style best suited to the same; to keep the market fully supplied with copies of said literary work, and to use its best endeavors to sell the same during all of the times which said copyright, or any renewals thereof, shall remain in force.

To deliver to said party of the first part, free of cost — copies of said book.

To render unto said party of the first part, semi-annually, on the first days of — and —, respectively, of each year after delivery of said manuscript, a report containing a statement of all sales of said work made by it during the — months ending on said respective days.

To exhibit to said party of the first part, on request, its printer's and binder's books, showing the number of copies of said literary work printed and bound.

To pay to said party of the first part the sum of — for each and every copy of said literary work sold by it, (or if the royalty is to be estimated on a percentage basis, the following clause may be used instead of a statement of a definite sum: To pay to the said party of the first part the sum of — per cent. of the retail price of each and every copy of said book sold by the party of the second part.) payable semi-annually on the first days of — and —, respectively, of each year after the delivery of said manuscript, for all copies of said literary work so sold by it during the six months next prior thereto.

It is mutually agreed by and between the parties hereto, on the considerations aforesaid:

That the stereotype and other plates made by said party of the second part and used in printing said work shall be the property of said party of the second part.

That in event of the bankruptcy or insolvency of said party of the second part, or in case said party of the second part shall fail to perform any of the agreements on his part to be performed, as herein provided, the right is hereby given to said party of the first part to rescind this agreement, upon giving reasonable notice thereof; whereupon the right to publish said work shall revert to said party of the first part, who shall then have the right of purchasing the stereotype and other plates, then used in printing and publishing said literary work, at a fair valuation to be agreed upon by the parties hereto. In case said parties are unable to agree thereon, the valuation of said plates shall be referred to three arbitrators, one to be appointed by each of the parties hereto, and the third by the two thus chosen; the decision of any two of whom shall be final and binding, and each of the parties hereto shall pay one-half of the expenses of such reference. Upon payment of the amount of said valuation by said party of the first part, said party of the second part shall assign to him the copyright of said literary work without further compensation. (If the copyright is taken out in the name of the author, a similar provision may be made to apply in case the publisher does not wish to continue the publication of such work.)

That this agreement shall inure to and be binding upon the executors, administrators, successors and assigns of the parties hereto.

In witness whereof, etc.

See references under § 3890.

§ 3892. Contract for the manufacture of goods.

This contract entered into at ———, this ——— day of ———, 19—, by and between A. B., of ———, party of the first part, and C. D., of ———, party of the second part, WITNESSES:

In consideration of the covenants on the part of said C. D., hereinafter set forth, said A. B., agrees to manufacture for said C. D., ——— [insert name of article and quantity] in accordance with the plans and specifications which are attached to this contract and are made a part thereof by reference. Said A. B., agrees to furnish all material and labor for the manufacture of said articles. The materials and workmanship shall conform to said plans and specifications. Said A. B., covenants to deliver said ——— [insert name of article] in lots of ——— [insert quantity] f. o. b. the cars of the X. Y. Ry. Company, at ——— [insert point of delivery]. Said delivery to begin on the ——— day of ———, and to continue every ——— days thereafter until the entire quantity, hereinbefore set forth, has been delivered. In consideration thereof the said C. D., agrees to pay to the said A. B., the sum of ——— dollars, for each article, to be paid within ——— days after delivery as aforesaid.

The said C. D., hereby covenants and agrees to secure the cars necessary for the transportation of said goods; and it is hereby agreed that said A. B., shall not be liable for failure to deliver said goods f. o. b. said cars in case said C. D., shall not be able to secure them. (Provisions may be added covering the case of partial or total default in the delivery of one or more instalments; or in case of delay in paying therefor. See § ———).

In witness whereof, etc.

§ 3893. Marriage—Ante-nuptial agreement with provision for release of dower.

This contract entered into this ——— day of ———, 19—, by and between A. B. and C. D., both of ———, ———, WITNESSES:

That whereas, the parties hereto contemplate a marriage with each other, and the said A. B., is seized and possessed of property of value, both real and

personal (and has ——— minor children, the issue of a former marriage) and desires to make suitable provision for said C. D., in lieu of dower in his real property, and in place of any year's allowance, homestead or other share in or distribution of his personal estate, and of any and all other rights or claims of the said C. D., as widow, heir, survivor, or next of kin of the said A. B.

Now, therefore, in consideration of said marriage and of the covenants of said C. D., hereinafter contained, the said A. B., hereby promises and agrees to pay to the said C. D., immediately after the solemnization of said intended marriage, the sum of ——— dollars (\$———), the same to be and become her individual property.

In consideration of the payment to her of said sum, the said C. D., hereby covenants and agrees that the same shall be in lieu of any and all rights or claims of dower, inheritance and descent in and to the real property of said A. B., now owned or hereafter acquired, and in lieu of any and all rights or claims to a distributive share of his personal estate, now owned or hereafter acquired, and of all claims for an allowance for a year's support, and in lieu of any and all other rights or claims in or to the estate of said A. B., which may, in any manner, arise or accrue by virtue of said marriage.

And the said C. D., for the consideration aforesaid, does hereby release, remise and relinquish unto the said A. B., and unto his heirs, devisees, personal representatives and assigns forever, all of the interests, rights, and claims hereinbefore mentioned and set forth.

And the said C. D., further agrees to execute and acknowledge, upon request of said A. B., or of his heirs, devisees, personal representatives and assigns, any and all proper instruments of release or conveyance to enable the said A. B., or his heirs, devisees, personal representatives or assigns, to bargain, sell and convey or otherwise dispose of any and all real estate, now owned or hereafter acquired, free and clear of any real or apparent right of vested or contingent dower therein.

In witness whereof, etc.

For specific performance of ante-nuptial contracts, see § 3342.

For the necessity of written evidence, see § 1250.

For cancelation, see § 3414.

§ 3894. Contract for separation—Release of dower, etc.

This contract of separation entered into at ———, ———, this ——— day of ———, 19—, by and between A. B. and C. B., husband and wife, WITNESSES:

That whereas, the parties hereto have agreed upon an immediate separation, and do hereby agree to live separate and apart during the remainder of their natural lives; and

Whereas, the said A. B. has this day paid to the said C. B., the sum of ——— dollars, the receipt of which is hereby acknowledged, and has assigned, conveyed and transferred, and does hereby assign, convey and transfer to said C. B. all of the household furniture in the residence lately occupied by said parties, and has, by good and sufficient deed of even date herewith, conveyed and transferred unto the said C. B. the following described real property, to wit: ——— [description of property].

Now, therefore, in consideration of the premises, each party hereto does hereby release and discharge the other from all obligations of support, and from all other claims, rights and duties arising or growing out of said marital relation; and said parties mutually agree that each party hereto may freely sell or otherwise dispose of his or her own property, by gift, deed or last will

and testament, and each party is by these presents hereby barred from any and all rights or claims by way of dower, inheritance, descent, distribution, allowance for year's support, right to remain in the mansion house, and all other rights or claims whatsoever, in or to the estate of the other, whether real or personal, and whether now owned or hereafter to be acquired.

And each party hereto, for the considerations aforesaid, does hereby release and relinquish to the other, and to the heirs, executors, administrators and assigns of the other, all claims or rights of dower and inheritance in and to all the real property of the other, whether now owned or hereafter acquired, all rights or claims to a distributive share of the personal estate of the other, now owned or hereafter acquired, and all claim or right to an allowance for year's support, or to reside in the mansion house, and all other rights or claims whatsoever.

Each party hereto further agrees, upon request of the other or of his or her heirs, devisees, executors, administrators or assigns, to execute and acknowledge any and all deeds or other instruments of release or conveyance to enable such other or the heirs, devisees, executors, administrators or assigns of such other, to sell, convey or otherwise dispose of his or her own real property, free from any apparent right of inchoate dower therein.

In witness whereof, etc.

A. B.,
C. B.

If it is desired to add a special provision for the custody of the children for their support, the following provisions may be inserted:

In consideration of the foregoing covenants, the said A. B. further covenants and agrees that the said C. B. shall have the sole and exclusive custody, control and care of the children of the parties hereto, to wit: [names of children] during their minority.

Said A. B. hereby covenants and agrees to pay to the said C. B. for the support and education of said children, the sum of _____ dollars (\$____), for each child, per year, payable in equal _____ payments of \$_____ each, on the first days of _____, during their minority; payments for each child to cease when such child reaches the age of majority.

For the validity of contracts for separation, see §§ 938 et seq.

For specific performance of contracts for separation, see § 3343.

§ 3895. Mortgage of realty.

Know all men by these presents: That A. B., of the _____ of _____, County of _____ and State of _____, in consideration of the sum of _____ dollars, to him paid by C. D., of the _____ of _____, County of _____ and State of _____, the receipt whereof is hereby acknowledged, do— hereby Grant, Bargain, Sell and Convey to the said C. D., his heirs and assigns forever, the following Real Estate, situated in the County of _____ in the State of _____ and in the _____ of _____ and bounded and described as follows: _____ [insert description].

To have and to hold said premises, with all the privileges and appurtenances thereunto belonging, to the said C. D., his heirs and assigns forever.

And the said A. B., for himself and his heirs, does hereby covenant with the said C. D., his heirs and assigns, that he will forever Warrant and Defend the said premises, with the appurtenances, against the lawful claims of all persons whomsoever.

Provided always, and these presents are upon this condition, that if the said A. B. shall pay or cause to be paid unto the said C. D. or to his executors, administrators and assigns _____ [insert note, debt or other obligation], and shall also, at all times, until said notes and every one of them shall be fully paid, keep the interest of the said mortgagee— in the buildings and improve-

ments which now are, or may hereafter be upon said mortgaged premises, insured against loss by fire — in and by some good and solvent Insurance Company, to be approved by said mortgagee— or his assigns, in a sum not less than — dollars, the policy for such insurance to be issued in the name of said A. B., the loss, if any, made payable to said mortgagee— and his assigns as his interest may appear, the policy to be held by the said mortgagee—, and shall also punctually pay, within the time which is or may be limited by law in that behalf, all taxes, levies, charges and assessments which may at any time (while said notes or either of them, shall be either wholly or in part unpaid) be levied, assessed or charged, or become payable on or against said mortgaged premises or any part thereof; and shall, on demand of said mortgagee— or his assigns, pay and refund to said mortgagee— or his assigns, with interest at — per cent. per annum, any sum or sums which said mortgagee— or his assigns may at any time pay, as premium or premiums, for such insurance as is hereinabove stipulated for, or in discharge of any tax, levy, charge or assessment upon or against said mortgaged premises, or any part thereof, after default of —, to pay the same or either of them; all of which the said A. B. has covenanted and agreed, and does hereby covenant and agree unto and with said mortgagee— and his assigns to do.

Then these presents shall be void, otherwise to be and remain in full force and virtue in law forever.

. In witness whereof, the said A. B. (and E. B., his wife, who hereby releases her right of dower in the premises), has hereunto set his hand, this — day of —, in the year of our Lord one thousand nine hundred and —.

Signed and acknowledged in presence of:

.....	
.....	
.....	

[Certificate of acknowledgement if necessary]

For specific performance of contract to execute mortgage, see § 3341.

§ 3896. Mortgage of personalty.

Be it known, that A. B., mortgagor—, in consideration of — to him paid by C. D., mortgagee—, the receipt of which is hereby acknowledged, does hereby Bargain, Sell and Convey to the said C. D., mortgagee—, the following described goods and chattels, to-wit: — [insert description].

Said mortgagee— may insure said property in the name and at the cost of said mortgagor— for not more than — dollars, loss, if any, to be paid to said mortgagee—, as his interest may appear; said cost of insurance being secured to mortgagee— by this mortgage.

If said goods and chattels, or any part of them, be secreted, or removed from their location, or be seized by process of law, or be abused, misused, sold or further mortgaged, without said mortgagee's consent; or if there be any default of payment of said indebtedness, or any part thereof, when due; or if said mortgagor— shall fail to do any other thing required of him by this instrument, or by the law of this state in reference hereto; then said mortgagee— may, by process of law or otherwise, take possession of said property and sell the same, at public or private sale, for the highest price he can obtain therefor, and apply the proceeds of said sale to the payment of said indebtedness and interest thereon, and of all actual and proper costs really incurred and

paid on account of said seizure and sale, but not including any attorney's fees, and shall pay the residue of said proceeds, if any, to said mortgagor—. Otherwise said property is to remain in the peaceable possession of said mortgagor—. But nothing herein contained shall be so construed as to preclude said mortgagee— from pursuing any other course or seeking any other remedy permitted or provided by law. And the said mortgagor hereby covenants and agrees to and with said mortgagee, his executors, administrators and assigns, that he is the true and lawful owner of the above described property, and has good right to sell, convey and incur the same; and that the same are free from all incumbrances whatsoever.

Provided, nevertheless, that ——— [insert as condition, the obligation to secure which the mortgage is given], then this conveyance shall be void; otherwise it shall be and remain in full force.

In witness whereof, etc.

§ 3897. Mortgage of personalty.

Know all men by these presents: That A. B., of the ——— County of ——— and State of ———, in consideration of ——— [insert consideration] to him paid by C. D., of the ——— County of ——— and State of ———, the receipt of which is hereby acknowledged, does hereby Bargain, Sell and Convey to the said C. D., his executors, administrators and assigns, the following described goods and chattels, to-wit: ——— [insert description of property].

The condition of this conveyance is such that if said A. B. shall pay, or cause to be paid, to said C. D. ——— [insert as condition the obligation to secure which the mortgage is given], then this conveyance shall be void; otherwise it shall be in full force.

It is further agreed that if default be made in the above conditions, or any part thereof, or if any secreting, or removal from their location, any abuse, or misuse, any sale, any seizure whatever by any process of law of said goods or chattels, or of any part of them, be either made or attempted by said mortgagor—, or by any person or persons claiming under him or in behalf of either, or by or in behalf of any creditor or creditors of said mortgagor—, or if from any other cause the security shall become inadequate, then said mortgagee— or successors may take immediate possession of said property, or of any part thereof, wherever found, and sell same at public or private sale, for the highest price he can obtain, and pay indebtedness and expenses. And it is further agreed that said mortgagee— or successors may insure said property for his benefit, during the continuance of this mortgage, and at the expense of the said mortgagor—, the cost of said insurance to be secured by this mortgage; and further, that in default of payment of said money, or any part thereof, then said mortgagee— or successors may sell said property at public or private sale, for the highest price he can obtain, and shall apply the proceeds of said sale to the payment of said indebtedness and interest thereon, and of all reasonable and necessary costs, including the cost of filing, recording and refiling this mortgage, and said costs of insurance, and shall pay the residue, if any, to said mortgagor— or successors. Otherwise said property is to be and remain in the peaceable possession of said mortgagor— or legal representatives.

And the said mortgagor hereby covenants and agrees to, and with said mortgagee, his executors, administrators and assigns, that he is the true and lawful owner of the above described property, and has good right to sell, convey and incur the same; and that the same is free from all incumbrances whatsoever.

In witness whereof, etc.

the right to name and appoint such exhibition dates, and the exhibitor agrees to accept the dates so appointed as the license dates hereunder.

4. The X. Y. Company does not deliver positive prints or advertising matter or use in the same city in which there is an X. Y. Company Exchange. The exhibitor agrees that express shipments are to be made by the ——— Express. The exhibitor agrees to pay for the use of advertising material specified in the above schedule the sums herein named for same in advance, upon receipt of invoice; that said advertising material shall be and continue to be the property of the X. Y. Company and is supplied to the exhibitor for the sole purpose of advertising pictures exhibited under said license by said exhibitor.

5. Such license shall be construed as a separate and distinct license for each of said motion picture subjects. The X. Y. Company agrees that during a period of ——— days immediately succeeding the expiration of the period for which each of said motion picture subjects respectively is licensed hereunder, the X. Y. Company will not license any other exhibitor to exhibit the same motion picture subjects within the following described territory.

6. Advertising matter supplied hereunder is to be shipped at least ——— days preceding the first date of exhibition of each subject licensed hereunder, provided that the exhibitor shall have paid the sum above named for the use thereof.

7. This application shall not be binding upon the X. Y. Company and shall not constitute a license unless and until the same shall have been accepted by the X. Y. Company, and such acceptance shall only be evidenced by the counter-signature hereon by the X. Y. Company's Short Subject Sales Manager at ———.

Accepted: The X. Y. Company.

———, Short Subject Sales Manager.

Approved by

———, Branch Manager,

By

———, Exhibitor.

TERMS AND CONDITIONS

1. In case a carrier be above named for the delivery of the aforesaid films, said provision shall only apply in case said films are shipped direct from the aforesaid branch of the X. Y. Company. Shipments from any other locality shall be by such carrier as the X. Y. Company may select.

2. The exhibitor shall return each of the films loaned as aforesaid to the said Branch Office of the X. Y. Company or to such other address as the X. Y. Company may direct in writing immediately after the close of the last performance for which the subject represented by such film is licensed as aforesaid.

3. The positives supplied in connection with this license are merely loaned to the exhibitor; who acquires no right, title or interest in the same. The exhibitor further agrees that the exhibitor has not and will not assert any claim or lien or charges thereon for or on account of any demands whatsoever, past, present or future, and the right of the X. Y. Company to the return of such positives shall be in addition to any right to damages liquidated or otherwise for which provision is made herein.

4. In the event the films named herein or any part thereof are destroyed or damaged in any way while in the possession of the exhibitor, the exhibitor shall furnish the X. Y. Company a sworn affidavit stating how said film was destroyed or damaged, and further pay to the X. Y. Company in addition to any other provision for or right to damage 15 cents for each lineal foot of film so damaged or destroyed.

5. No scene, title or sub-title of film loaned to the exhibitor as aforesaid shall be cut or altered without the written consent of the X. Y. Company.

6. The films loaned to the exhibitor as aforesaid shall not be projected at a greater rate of speed than 1M feet in 15 minutes.

7. If the exhibitor or any one claiming under or against the exhibitor shall withhold from the X. Y. Company any film after the time when the same is due to be returned to the X. Y. Company, as herein provided, the exhibitor shall pay to the X. Y. Company as liquidated damages for such withholding, in addition to any other damages liquidated or otherwise for which provision is made herein, or to which the X. Y. Company may be otherwise entitled, the sum of \$—— for each roll of film so withheld, plus a sum of money equal to the license fee provided herein for each day that such film shall be so withheld.

8. Unless the title of a subject is specifically mentioned, it is understood that the X. Y. Company will loan to the exhibitor a positive print of a subject of the X. Y. Company's own selection.

9. No loan of film shall be made by the X. Y. Company hereunder until the exhibitor shall have paid to the X. Y. Company all moneys then due under the terms of this license or under the terms of any other agreement between the parties hereto. In case any such moneys be so unpaid to the X. Y. Company, the X. Y. Company may at its option ship any film or films so to be loaned C. O. D. for the license fee or fees then owed hereunder or moneys otherwise due to the X. Y. Company, and in that event the exhibitor agrees to pay the C. O. D. and all other incidental charges. It is expressly understood that paragraph 3 above applies to and governs all films so sent C. O. D.

10. The failure of the X. Y. Company to insist upon the strict performance of any provisions hereunder shall not be construed as a waiver for the future of any such provisions, but same shall remain and continue in full force and effect.

11. The X. Y. Company shall not be liable for any loss or damage resulting to the exhibitor or any other person by reason of failure or delay from any cause whatsoever in delivering the films aforesaid or any of them or such advertising matter or any part thereof at the times and places specified above for the same respectively, except that where such failure or delay has been caused by the error or the negligence of the X. Y. Company, its agents or servants, the exhibitor shall be entitled to a refund of so much of the license fee as has been paid as aforesaid for the exhibition date or dates of a film or films, the delivery of which may have so failed or been delayed, and in no event shall the X. Y. Company be liable for more than the license fee paid for any date for which the film may not have been delivered as aforesaid, it being expressly agreed that the same shall be taken as liquidated damages in the premises.

12. The X. Y. Company shall have the right to cancel and terminate this license and all rights of the exhibitor hereunder upon default by the exhibitor in the payment of any moneys due hereunder or otherwise by the exhibitor to the X. Y. Company, or in case the exhibitor fails to return as aforesaid any films loaned to or in the hands of the exhibitor under this license or any contract between the parties hereto within the time appointed herein or therein for the return of same, or in case of any other default by the exhibitor under this license or any contract between the parties hereto.

13. If the license granted hereunder covers motion picture subjects released weekly at regular intervals, the same shall be subject to cancellation at the option of either party by four weeks' written notice given to the other party. If the license granted hereunder covers a series of motion picture subjects released at irregular intervals, the same shall be subject to cancellation at the option of either party by notice in writing given to the other, and such cancellation shall be effective from and after the expiration of the license date next succeeding the date of the giving of such notice.

14. So long as Section 905 of the Revenue Act of 1918 shall remain in force, the exhibitor shall pay the X. Y. Company, in addition to all other charges, a sum equal to 5% of the gross license fees payable by the exhibitor for the license granted to said exhibitor to exhibit said motion picture subjects, such 5% to be added to the bill for such license fees and to become due and payable at the time of the payment of such license fees. The payment of such tax by the exhibitor is of the essence hereof and failure to do so will be sufficient cause for its immediate cancellation by the X. Y. Company.

15. The exhibitor shall return to the X. Y. Company on demand all advertising matter supplied as aforesaid.

16. Salesmen are not authorized to make any modification of the printed terms hereof. No agreement other than as expressed herein has been made between the parties hereto.

17. The license granted hereunder is personal to the exhibitor and shall not be assigned without the X. Y. Company's written consent.

The X. Y. Company does not furnish advertising matter without charge.

For theatrical contracts, see §§ 3929 to 3931.

§ 3899. Motion pictures—Contract between producer and theatre.

SHARING CONTRACT

This agreement, made and entered into by and between A. B., of ———, of the first part, and the X. Y. Company, of the second part, in consideration of one dollar, by each to the other in hand paid, the receipt of which is hereby acknowledged, and in further consideration of the moneys to be divided as hereinafter mentioned, it is mutually agreed as follows:

WITNESSETH, that the party of the first part agrees to furnish to the party of the second part the ——— [insert name of theatre, etc.], properly lighted, heated, cleaned, licensed, all necessary electrical current, all necessary attaches on stage and in front of house, police, orchestra of not less than ——— musicians, advertising in all daily newspapers, commencing ——— days in advance, bill posting, distributing, bill board rents, house programmes and all tickets.

The party of the first part also agrees to receive the scenery, properties and baggage of ——— [insert name of film] Company at the stage door of the theatre and to place the baggage in the dressing rooms, and to furnish competent men to put the scenery and properties on the stage and to deliver the scenery, properties and baggage at the back door of the theatre and to furnish competent men to take down the scenery at the conclusion of the performance under this contract. The party of the first part also agrees to erect platform in the rear of the lower floor for moving picture machines and booth; also to do all necessary wiring between switchboard on stage to booth; also agrees to share on all extra advertising for a period of ———.

The party of the second part agrees to furnish for said period ——— [insert name of film], including two moving picture machines, two moving picture machine operators, booth, stage setting, screen, all effects on stage, operators of effects, stage director, carpenter, propertyman, electrician, supernumeraries, orchestra of twelve pieces, musical director, all pictorial and block printing, and agrees to share pro rata on all extra advertising.

The receipt of the performances under this contract shall belong to the parties hereto in the following proportions:

The party of the second part to receive ———.

The party of the first part to receive ———.

Settlement to be made during each performance from the box office statements controlled by the tickets in the boxes.

No persons to be admitted free into said theatre during the continuance of this agreement, except those agreed upon by both parties hereto.

The party of the first part agrees that there shall be no other entertainment of any name or nature in the said theatre on the date named in this contract; and further agrees to give to the party of the second part the full right of the sale of books, librettos and music.

Both parties agree that the prices for this engagement shall range from ——— cents to ——— dollars for the evening performances, and ——— cents to ——— dollars for the matinee performances, with the understanding that at least two-thirds of the seats on the lower floor will be ——— dollars at all

evening performances, and at least two-thirds of the seats on the lower floor will be _____ dollars at all matinee performances.

Party of the second part or his representative to have access to box office and any and all parts of the theatre he may desire during the engagement.

It is also agreed that all the conditions named in this contract shall be subject to the customs governing uncontrollable circumstances, such as accidents, public calamity, fire, war, floods, or any unforeseen events and the like, and that in such case no claim for compensation or damages shall be made by either party hereto.

Witness our hands this _____ day of _____, 19____, at _____.

For a similar form of contract for producing plays, etc., see § 3931.

§ 3900. Negotiable instrument—Promissory note.

§_____. _____, _____, 19____.
_____ after date, for value received, _____ promise to pay to _____ or order, _____ dollars, with interest from date, until paid, at _____ per cent. per annum, payable _____ annually, at _____.

For the elements of negotiable contracts, see §§ 2305 et seq.
For the nature and effect of negotiability, see §§ 2343 et seq.
For the rights of a holder in due course, see §§ 2354 et seq.
For the effect of war on duty to pay, see §§ 2735 et seq., 2750 et seq.
For alteration, see §§ 3072 et seq., 3083.
For specific performance of contracts to lend money, see § 3340.
For cancellation, see § 3415.
For the nature and effect of usury, see §§ 959 et seq., 1081 et seq. and 1113 et seq.

§ 3901. Negotiable instrument—Cognovit note.

§_____. _____, _____, 19____.
_____ after date, for value received, _____ promise to pay to _____ or order, _____ dollars, with interest from date, until paid, at _____ per cent. per annum, payable _____ annually, at _____.

And _____ do hereby authorize _____, attorney at law, to appear for _____ in an action on the above note, at any time after said note becomes due, in any court of record, in or of the State of Ohio, to waive the issuing and service of process against _____ and confess a judgment in favor of the legal holder of the above against _____ for the amount that may then be due thereon, with interest at the rate therein mentioned, and costs of suit; and to waive and release all errors in said proceedings, petitions in error, and the right of appeal from the judgment rendered.

See references under § 3900.

§ 3902. Negotiable instrument—Promissory note with collateral clause.

§_____. _____, _____, 19____.
_____ days after date, _____ promise to pay to the order of the _____ Bank, _____ dollars, for value received, at the office of said Bank with interest at _____ per cent. per annum, having deposited with said Bank as collateral:

security for payment of this or any other liability or liabilities of — to said Bank, due or to become due, or that may be hereinafter incurred, the following property: — [description of property], the market value of which is now \$—, with the right on the part of said Bank from time to time to demand such additional collateral security as it may deem sufficient should the market value thereof decline, and also give said Bank a lien for the amount of all said liabilities upon all the property or securities given unto or left in its possession by the undersigned, and also upon any balance of the account of the undersigned with it. Upon failure to comply with any such demand, this obligation shall forthwith become due, with full power and authority to it, or its assigns, in case of such default or of the non-payment of any of the liabilities above mentioned at maturity, to sell, assign and deliver the whole or any part of such securities, or any substitutes therefor or additions thereto, at any broker's board, or at public or private sale, at its option, at any time or times thereafter without advertisement or notice to the undersigned, and with the right on the part of said Bank to become purchaser thereof at any public sale thereof or at any sale thereof at broker's board, freed and discharged of any equity of redemption. And after deducting all legal or other costs and expenses for collection, sale and delivery, to apply the residue of the proceeds of such sale or sales so made, to the payment of any, either or all of said liabilities, as it may deem proper, rendering the overplus, if any, to the undersigned; and the undersigned will remain liable for any amount remaining unpaid after such sale. The undersigned do hereby authorize and empower said Bank, at its option, at any time, to appropriate and apply to the payment and extinguishment of any of the above-named obligations or liabilities, whether now existing or hereafter contracted, any and all moneys now or hereafter in its possession, on deposit or otherwise, to the credit of or belonging to the undersigned, whether said obligations or liabilities are then due, or not due. —

See references under § 3900.

§ 3903. Negotiable instrument—Note with interest coupons secured by mortgage.

\$—, —, —, 19—.

— after date, for value received, — promise to pay to the order of —, — dollars, with interest from date, payable — at the rate of — per cent. per annum so long as the same shall be paid promptly according to the tenor of the — coupons hereto attached, and at the rate of — per cent. per annum after the principal shall have become due, either by reason of default in payment of any coupon or of the maturity of this note, and until principal and interest shall be fully paid. Both principal and interest are payable at —.

Upon failure to pay any of the interest at maturity, or to perform any of the covenants or conditions contained in the mortgage securing this note, then the whole of the principal and accrued interest shall, at the option of the holder hereof, become due and payable without further notice. —.

INTEREST COUPON

\$—, —, —, 19—.

— months after date, — promise to pay to the order of —, — dollars, payable at — for value received, with interest after maturity, at the rate of — per cent. per annum, being the interest on — principal note for \$— of even date herewith.

Due, —.

See references under § 3900.

§ 3904. Negotiable instrument—Bill of exchange.

\$ ———, ———, 19—.
On demand (or at sight, or at ——— days sight, or ——— days after date)
pay to the order of E. F. ——— dollars and charge the same to the account of
To C. D. A. B.

See references under § 3900.

§ 3905. Negotiable instrument—Certificate of deposit.

\$ ———. The ——— Bank ———, ———, 19—.
This certifies that ——— has deposited in this bank ——— dollars, payable
with interest at the rate of ——— per cent. per annum, ——— on return of
this certificate properly endorsed.
No. ———. Cashier.

See references under § 3900.

§ 3906. Protest.

(Copy of bill or note protested)

United States of America, }
State of ———, ——— } ss:
County. }

Be it known by this Instrument of Protest: That at the close of banking
hours, on ——— the ——— day of ———, A. D. 19—, I ———, a notary public
within and for said County of ———, did, at the request of ———, holder of
the original ——— hereto attached and copied above, present the same to ———
at ——— in the City of ———, ———, and demanded payment (or acceptance)
thereof, which was refused for the following assigned reason: ———.

Whereupon I protested the same for non-payment (or non-acceptance) and
notified the following-named drawer and indorser thereof of said presentment
and protest, by a separate notice to each, enclosed in (the same, or, separate)
envelope, and addressed as follows: ———, and deposited the same in the post
office of ——— in said County, the same day, postage paid; and the following-
named drawer and indorser thereof, by delivering to each of them such notices
personally on the same or the next day ———.

Whereupon I, the said notary, upon the authority aforesaid, have protested
and do hereby solemnly protest as well against the drawer of the said ———
as against all other persons whom it doth or may concern, for exchange, re-
exchange, and all costs, charges, damages, and interest, suffered or to be suffered,
for the want of payment (or acceptance) thereof, and I certify that I have
no interest in the above-protested instrument.

Witness my hand and notarial seal this ——— day of ———, 19—.

Protest Fees, \$ ———.

[Notarial seal.]

Notary Public.

§ 3907. Notice of protest.

\$ ———, ———, 19—.
Take notice, that a ———, dated ———, 19—, for ——— dollars, drawn
by ——— on ———, payable ——— to the order of ——— at ——— and

endorsed by you, was this evening at the request of _____ protested for non-payment (or non-acceptance), the same having been presented and payment (or acceptance) demanded, which was refused.

The holder thereof looks to you for payment.

To _____.

_____,
Notary Public.

§ 3908. Promissory note executed by guardian, receiver, trustee, etc., excluding personal liability.

§ _____. _____, _____, 19____.

_____ after date, in my capacity as _____ [insert designation as trustee and the like so as to identify the trust fund] and not in my personal capacity, I promise to pay to the order of _____, _____ dollars, out of the funds of the _____ [specify trust fund from which debt is payable]; but it is understood that I am not to be liable personally in case of any deficiency in said trust funds.

For the nature of the liability arising on contracts of trustees, etc., see §§ 1808 et seq.

§ 3909. New contract modifying original contract.

This contract entered into this _____ day of _____, A. D. 19____, by and between A. B., of the City of _____, State of _____, party of the first part, and C. D., of the City of _____, State of _____, party of the second part,
WITNESSES:

That whereas, on or about the _____ day of _____, said A. B. and said C. D. entered into a contract, a copy whereof is hereto attached and incorporated herein by reference;

And, whereas, said A. B. and C. D. have each agreed to modify certain terms of said contract;

Now, therefore, it is mutually agreed, that in consideration of the covenants and releases hereinafter contained, said A. B. is hereby released and discharged from the performance of the clause of said contract whereby he agreed to _____ [insert clause which parties have agreed to waive]; and in consideration of said release and discharge, said A. B. in lieu of the performance of said clause hereby agrees to _____ [insert covenant which parties have agreed to accept as a substitute for the corresponding clause of the original contract]; and said C. D. hereby agrees to accept the last-mentioned covenant of said A. B., herein contained, in place of the aforesaid covenant in said original contract contained.

In witness whereof, etc.

If the clause in question has been performed in part before the modification thereof is made, a clause should be added fixing the amount of compensation which is to be made for such part performance; or fix the basis upon which such compensation is to be determined; or providing expressly that no compensation is to be made for such part performance as part consideration for such release from further performance.

For the consideration for a new contract, see §§ 610 and 2461 et seq.

For new contract as discharge, see §§ 2457 et seq.

For the effect of new contract on rights arising out of prior contract, see §§ 2464 and 2496.

For payment, see §§ 2802 et seq.

For negotiable instrument as payment of prior obligation, see §§ 2813 et seq.

For breach by renunciation, see § 2891.

§ 3910. Option for purchase of realty.

This contract entered into this _____ day of _____, 19____, at _____, _____, between A. B., of _____ (hereinafter designated as first party), and C. D., of _____, _____ (hereinafter designated as second party), WITNESSES:

That in consideration of _____ dollars (\$_____) paid by said second party to said first party, the receipt whereof is hereby acknowledged, said first party agrees to sell and convey to said second party, his heirs or assigns, by good title, free of all incumbrance, with release of dower, at any time within _____ days from said date, the following described real estate, situate in the _____ of _____ in the County of _____, and State of _____, to wit: _____ [description of property].

The consideration which said second party, his heirs or assigns, shall pay for said land is _____ dollars, payment to be made as follows:

Deferred payments are to be secured by mortgage on the premises and to bear _____ per cent. interest. The said deferred payments may be made at any time before maturity, with interest to date of payment.

If said second party, his heirs or assigns, shall not purchase said land within said _____ days, then neither said second party nor said heirs or assigns shall have any claim whatever to said sum first above mentioned, nor said land.

In witness whereof, etc.

§ 3911. Option contract to re-purchase, if vendee desires to re-sell.

Whereas, A. B. has this day purchased _____ [insert description of property], for the price of _____;

And whereas, by the mutual agreement of said parties, said price was paid not only for said _____, but also for the option to resell which is hereinafter set forth;

Now I, C. D., the undersigned, in consideration of said sale, and in consideration of one dollar (\$1) paid to me by said A. B., the receipt of which is hereby acknowledged, do hereby agree that if, at the expiration of one year from the date hereof, the said A. B. shall desire to sell said _____ at the price paid by him therefor, I will purchase the same and pay to him the amount paid by him therefor, together with interest thereon at the rate of _____ per cent. per annum.

_____, _____, 19____.

C. D.

For other forms of options, see §§ 3889, 3911 and 3912.

For form of contract for sale of realty, see § 3922.

For the validity of option contracts, see §§ 122 et seq., 647 et seq. and 652 et seq.

§ 3912. Option to purchase stock in corporation.

_____, _____, 19____.

In consideration of _____ dollars (\$_____), the receipt of which is hereby acknowledged, I hereby give to C. D. the right and option to purchase from me at any time within _____ days from the date hereof _____ shares of the _____ [common or preferred] stock of The X. Y. Company at \$_____ per share, payable in cash.

All dividends, for which the transfer books close during said time, go with the stock. One day's notice of the exercise of this option is required, except on the last day.

A. B.

§ 3913. Sale of personalty—Bill of sale.

Know all men by these presents: That A. B., of the City of —, County of — and State of —, in consideration of — [insert the consideration], to him paid by C. D., of the City of —, County of — and State of —, the receipt whereof is hereby acknowledged, have bargained, sold, granted and conveyed, and by these presents do bargain, sell, grant and convey unto the said C. D., his executors, administrators and assigns — [insert description of property sold].

To have and to hold the same unto the said C. D., his executors, administrators and assigns forever.

And the said A. B., for himself and his heirs, executors and administrators, does hereby covenant with the said C. D., his executors, administrators and assigns, that he is the true and lawful owner— of the said described goods hereby sold, and has full power to sell and convey the same; that the title, so conveyed, is clear, free and unincumbered; and further, that he does warrant and will defend the same against all claim or claims of all persons whomsoever.

In witness whereof, etc.

For goods sold and delivered, see §§ 1471 et seq.
 For the effect of war, see §§ 2743 and 2760 et seq.
 For performance, see §§ 2788 and 2797.
 For breach by renunciation, see § 2889.
 For breach by non-performance, see § 2929.
 For precedent covenants, see § 2953.
 For concurrent covenants, see § 2965.
 For failure of consideration, see § 2992.
 For acceptance of defective performance, see §§ 3050 et seq.
 For damages, see §§ 3203, 3220 et seq.
 For quasi-contractual rights arising on breach, see § 3253.
 For specific performance, see §§ 3328 et seq.

§ 3914. Sale of personalty—Contract for delivery in instalments.

The A. B. Company, of the City of —, State of —, vendor, agrees to sell and deliver to the C. D. Company, of the City of —, State of —, purchaser, and the said purchaser agrees to buy, receive and pay for the merchandise hereinbelow described, in quantities and at the prices herein named, during the period of one year from —, and according to the terms and conditions named below:

Description and quantity:

————— (\$ —) per —
 f. o. b. cars, less freight to —, all deliveries to be computed to and billed as —.

Deliveries: To be made and taken in approximately equal quantities throughout the months of —, as nearly as may be — per month.

Terms of payment: —.

Conditions: Each shipment to be treated for the purpose of settlement, as a separate and independent sale, but if buyer fails to make payment for any materials furnished by vendor according to terms of sale, said vendor may defer additional shipments until payment is made, or may cancel this contract at his option. Payment of all bills to be made in United States gold coin or its equivalent in United States currency. The vendor reserves the right to decline to make deliveries on this contract except for cash, whenever said vendor shall have any doubt as to buyer's responsibility and so informs buyer.

Deliveries to be renewed according to contract terms when buyer shall have satisfied said vendor as to his responsibility.

It is understood and agreed that any decline or advance in freight rates or other transportation charges which may be made subsequent to date of this contract shall be for the account of and borne by the buyer.

Vendor shall not be held responsible for failure of delivery when same is due to strikes, fire, casualties at their works, delays in transit, or other contingencies beyond their control.

In witness whereof, etc.

The seller may exercise his option to terminate the contract in case of failure of the buyer to pay within the time limited. *Dow Chemical Co. v. Detroit Chemical Works*, 208 Mich. 157, 14 A. L. R. 1200, 175 N. W. 269. See references under § 3913.

For breach of instalment contracts, see §§ 3008 et seq.

§ 3915. Sale of personalty—Conditional sale on credit, reserving title.

This agreement, made at —, in — County, Ohio, between —, the first party hereto, and —, the second party hereto.

WITNESSETH, that whereas the said second party ha— this day given into the custody of said first party the following goods and chattels, to-wit: —;

Now, the said first party agree— to pay for said goods as set forth below; and to hold said goods and chattels, until —h— shall have paid therefor the sum of — dollars, as the sole and exclusive property of said second party; which sum shall be paid as follows: — cash, and the balance in — instalments of — dollars each, payable on —, at —, until said sum of \$— shall have been paid in full.

Said first party agree— to insure said property in the sum of \$—, for the benefit of said second party, as —h— interest may appear, until said payments shall all be made.

Said first party also agree— not to remove said goods, nor permit them to be removed, out of —h— in said county, except for their safety in case of fire, without the consent of said second party.

And the said first party agree— that, upon —h— failure for the period of — days to perform any one of the conditions above expressed by —h— to be performed, —h— will deliver the said goods and chattels to the said second party on demand, in as good condition as when received, and will forfeit all money paid thereon, or so much thereof as may be just and lawful, as an equivalent for the use thereof and for demand thereto while in —h— custody.

And the second party agree— that —h— will transfer said goods and chattels, and all ownership and property therein, to said first party as soon as they shall have been paid for as agreed herein, and no sooner; it being fully agreed and understood that there is to be no change of ownership in said goods and chattels until said money shall all be paid as is agreed herein.

Signed in triplicate by said parties, this — day of —, A. D. 19—.

See references under § 3913.

§ 3916. Car trust agreement.

Memorandum of agreement made this — day of —, A. D. —, between A. B., trustee, and the X. Y. Company, whereby said A. B. agrees to lease to the said X. Y. Company, and the said X. Y. Company agrees to hire

from him, — cars and — locomotives, bearing the numbers, and to be made by the makers set out in the schedule hereto attached and made a part thereof, marked — and delivered at —, in accordance with specifications hereto annexed, such renting and hiring to be in respect of each of said cars and locomotives for the period of — years from the date of the delivery of said cars to said X. Y. Company, but subject, however, to the provisions and conditions hereinafter contained. The said rolling stock to be delivered as per the contract of said A. B., with the said makers, but it is understood that the said A. B. shall in no way be liable for any delay that may arise in delivery of said cars by said makers and said X. Y. Company may for convenience make the contracts direct with said makers. The rental of said cars and locomotives payable to said A. B., lessor, or assigns, by the said X. Y. Company, lessee, shall be as follows: The gross sum of — dollars on delivery of said cars and locomotives, and ratably in that proportion, counting — cars as equal to one locomotive in and for the delivery of any portion thereof to the persons authorized by the said X. Y. Company to receipt for the same, and the receipt of such persons or person shall be final and conclusive evidence of the acceptance of such locomotives and cars to the satisfaction of the lessees; and in addition the full sum of — dollars in each year from the date of this agreement of lease for the term of — years, together with interest on such yearly payments at the rate of — per cent. per annum, payable semi-annually on the — days of — and — of each year during said term. In case of default in the payment of any instalment or instalments of rent on the day on which the same falls due hereunder, the said lessor or assigns shall have the right at their option to enter upon the premises of the said X. Y. Company, to remove any and all locomotives and cars which shall have been delivered to said X. Y. Company under this agreement, and have the right to sell the same at public or private sale, and the proceeds to be applied to the payment of any and all instalments of rent for said cars and locomotives for the whole of said term of — years limited and prescribed by this agreement, whether said instalments shall have then fallen due or not, and notwithstanding said locomotives and cars shall have been taken possession of and removed and sold prior to the expiration of this lease; and if the proceeds shall be more than are sufficient to pay such unpaid instalment of rent with interest and expenses, then the surplus to be paid to the said X. Y. Company, but if there should be any deficit the said X. Y. Company shall be liable to pay such deficit on demand. The lessees to keep said cars and locomotives in proper and complete repair and condition, less the fair wear and tear, and such repair and maintenance to be done to the satisfaction of the agent or engineer of the lessor. That at all times the name, number and plate, of other marks and signs of ownership of the lessor, to-wit, —, or the initial, to-wit, —, shall be fixed and retained upon each of the cars and locomotives aforesaid for the purpose of making the ownership publicly known, and, in the event of any such marks or signs being destroyed, the lessee will immediately restore the same; and that such other things shall be done as by the counsel of said lessor shall be deemed necessary or expedient for the full and complete protection of the rights of said lessor as owner of said cars. That said cars and locomotives are to be insured against fire to the amount of — (\$—), and the insurance is to be paid by the lessee, loss, if any, made payable to said A. B., as his interest may appear. The lessee shall replace any cars and locomotives lost by fire, and in that case it shall receive from the lessor the amount collected from the insurance company or companies on such loss. The several payments to be paid for rental to be evidenced by obligations of the lessee due at the time of maturing of said payments, as defined by this lease, and delivered pro rata to said lessor at the

time of the delivery of said rolling stock, with coupons for the interest payment hereinbefore provided for.

And the said X. Y. Company covenants and agrees to perform the agreements and undertaking in its behalf contained herein, and to pay promptly each and every obligation so as to be given thereunder; and it is further agreed that in consideration of such several hereinbefore specified payments during the said term of _____ years, and all other sums of money due hereunder, and interest which may have accrued thereon, being fully paid to the lessor, and in consideration of _____ cents for each and every of said cars and of _____ dollar [s] for each and every locomotive being also paid by the lessee within _____ days after the expiration of said term of _____ years, that then the said rolling stock, as described herein, shall become and be the absolute property of said lessee, without further conveyance or transfer. The said lessee agrees to pay the lessor or assigns not to exceed _____ dollars per annum for the expense of an agent or engineer to examine the said cars. The lessee agrees to pay the expense of preparing the obligations to be given for the rental.

In witness whereof, etc.

A so-called lease of this sort is inoperative as against a prior mortgage which contains a valid clause covering after-acquired property; especially if no schedule is attached to such lease, at the time of its execution, designating specific rolling stock as subject to its operation. *Central Trust Co. v. Ohio Central Ry. Co.*, 36 Fed. 520; 6 O. F. D. 159.

In the affrmance of this case in McGourkey v. Toledo & Ohio Central Rail-
way, 146 U. S. 536, it was said that the transaction was a sale, and the lease,
in effect, a mortgage, subordinate to the lien of the prior mortgage; espe-
cially as the directors of the railway made the contract, on behalf of the
railway, with themselves as so-called lessors.

For other form of conditional sale, see § 3915.

For chattel mortgage, see §§ 3896 and 3897.

§ 3917. Sale of personalty—Motor vehicle—Retail.

Name _____
 Frame No. _____
 Motor No. _____

THE X Y MOTOR CO.
Retail Car Contract

Starter No. _____
 Del'y Order No. _____
 Date Delivered _____

_____ 19__

Please enter order for Model ——— [insert model and name of car], equipped with ——— Tires, this Car to be delivered on or about ——— (barring delays in transportation or other causes beyond our control), according to the following terms and the regular catalogue specifications:

Price of Car, F. O. B. Factory.....	\$
Freight from Factory.....	.....
Additional Equipment .....	.....
.....
Total .....	.....
Less Deposit, Receipt of which is hereby Acknowledged.....	.....
.....
Balance Due when Delivery of Car is Tendered.....	.....
Salesman .....	.....

It is expressly agreed and understood that the amount deposited herewith shall be returned to me should you be unable to make delivery, and no further responsibility shall exist. It is also expressly agreed in the event this order is canceled any second-hand car which may have been taken in exchange in part payment of purchase price and sold by the X. Y. Motor Company previous to such cancellation shall be accounted for by it at the price sold less cost of

handling, and not at the price which may have been allowed for the same in exchange.

No agreement, verbal or otherwise, not contained in this contract will be recognized.

The Guarantee on this sale is printed on the reverse of this contract and the purchaser expressly agrees that no claim will be made except as specially provided for in this contract.

(Signed in Duplicate)

Accepted, The X. Y. Motor Company,
_____, Retail Sales Manager.

Signed _____,
Residence _____.

GUARANTEE

In order to avoid misunderstanding, we desire our patrons to clearly understand that our guarantee for one year from date of delivery of the car to you is in respect to defective material only.

We will, however, supply free of charge the necessary time and labor for such replacement for a period of ninety days from the date of delivery of car to you, except for the freight or express charges of such defective parts to and from the factory.

We do not assume any contingent liability, nor does this guarantee apply to repairs or replacements made necessary by accident, carelessness, negligence or abuse; nor do we accept any responsibility in connection with tires, ignition apparatus, and trade accessories, such as lamps, speedometers, carburetors, electric starting and lighting systems, etc., which are guaranteed by the manufacturers of the same.

Where claims are made in respect to faulty material, the parts complained of must be returned to Buick Motor Company, Flint, Michigan, charges prepaid, for their inspection.

The condition of this warranty is such that if the motor car to which it applies is altered or repaired outside of our factory, our liability shall cease.

No allowance will be made for any labor, performed outside our service station, neither will we assume any responsibility for any adjustments or repairs made outside our service station, except by our own men.

Customer's cars are driven by our employees at customer's own risk.

This Guarantee does not apply to second hand cars.

The X. Y. Motor Co.

See references under § 3913.

§ 3918. Sale of personalty—Motor vehicle—New.

Know all men by these presents: That A. B., of _____ County of _____, State of _____, the Grantor—, for the consideration of _____ dollars (\$_____), paid by C. D., of _____ County of _____, State of _____, the Grantee—, the receipt of which is hereby acknowledged, do— hereby grant, bargain, sell, transfer and deliver unto the Grantee— the following described motor vehicle:

Manufacturer or Maker, _____; Manufacturer's Number, _____; Engine or Motor Number, _____; Other numbers thereon, _____; Horse Power, _____; Description of Body, _____; Other number or marks of identification thereon or on appliances attached thereto, _____.

(If an imported motor vehicle, the following must also be filled in:)

Importer, _____; City and Country of Manufacture, _____; Port of Exportation, _____; Port of Importation, _____.

To have and to hold the same unto the said Grantee— and —h— executors, administrators and assigns, forever.

And the said Grantor— hereby covenant— to and with the said Grantee— that said Grantor— _____ the lawful owner— of the above described motor vehicle; that the same is free from all incumbrances whatsoever, except _____;

that said Grantor— ha— good right to sell the same as aforesaid; and that said Grantor— will warrant and defend the same against all lawful claims and demands whatsoever, except ———.

In witness whereof, etc.

This contract is in substantial compliance with certain recent statutes, which require full description of motor vehicle and also affidavit of ownership, filing, etc.

In such jurisdiction a sworn statement of ownership must generally be filed, in some such form as the following:

The State of ———, ——— County, ss:

———, first being duly sworn, deposes and says that the following are the name— and residences of each and every bonafide owner of the Motor Vehicle hereinafter described:

NAME— AND RESIDENCE— OF OWNER—

Name, A. B., Residence, ———; Name, C. D., Residence, ———.

DESCRIPTION OF MOTOR VEHICLE

Manufacturer or Maker, ———; Manufacturer's Number, ———; Engine or Motor Number, ———; Other numbers thereon, ———; Horse Power, ———; General Description of Body, ———; Other number or marks of identification thereon or on appliances attached thereto, ———.

A. B.,
C. D.

[Certificate of officer taking affidavit.]

§ 3919. Sale of personalty—Motor vehicle—Used.

Know all men by these presents: That A. B., of the ——— County of ———, State of ———, the Grantor—, for the consideration of ——— dollars (\$——), paid by C. D., of the ——— County of ———, State of ———, the Grantee—, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell, transfer and deliver unto the Grantee— the following described used motor vehicle:

Manufacturer or Maker, ———; Manufacturer's Number, ———; Engine or Motor Number, ———; Other Numbers, ———; Horse Power, ———; Description of Body, ———; Other number or marks of identification thereon or on appliances attached thereto, ———.

ORIGINAL OR FIRST PURCHASER FROM THE MANUFACTURER OR IMPORTER OR THE DIRECT AGENT OF EITHER

Name, ———; Residence, ———; Occupation, ———; Place of business or employment, ———; Name of employer (if any), ———.

SUBSEQUENT PURCHASERS OR OWNERS

Name, ———; Residence, ———; Occupation, ———; Place of business or employment, ———; Name of employer (if any), ———.

Name, ———; Residence, ———; Occupation, ———; Place of business or employment, ———; Name of employer (if any), ———.

Name, ———; Residence, ———; Occupation, ———; Place of business or employment, ———; Name of employer (if any), ———.

Grantor's Title: How acquired, ———; Date, ———, 19—; Place, ———; Changes and alterations in finish, design or appearance made within knowledge of Grantor— ———.

(If an imported vehicle, the following must be filled in:)

Importer, ———; City and Country of Manufacture, ———; Port of Exportation, ———; Port of Importation, ———.

To have and to hold the same unto the said Grantee— and —h— executors, administrators and assigns, forever.

And the said Grantor— hereby covenant— to and with the said Grantee— that said Grantor— ——— the lawful owner— of the above described used motor vehicle; that the same is free from all incumbrances whatsoever, except ———; that said Grantor— ha— good right to sell the same as aforesaid; and that said Grantor— will warrant and defend the same against all lawful claims and demands whatsoever, except ———.

In witness whereof, etc.

See references under § 3913.

This form is in substantial compliance with certain recent statutes: which also require affidavit of vendor, filing, etc.

See references under § 3913.

§ 3920. Contract for sale of stock in trade, fixtures, lease and good will, with agreement of seller not to re-engage in competing business.

This contract entered into at ———, ———, by and between A. B., of ———, ———, party of the first part, and C. D., of ———, ———, party of the second part, WITNESSES:

That said party of the first part hereby promises and agrees to sell, and said party of the second part hereby promises and agrees to buy, the following described goods, wares, merchandise, chattels and effects, to-wit: All the stock in trade and fixtures now contained and being in and about premises known as number ———, ——— Street, in the City of ———, ———, together with the good will established by said party of the first part in connection with the ——— [dry goods, retail drug, men's furnishings, etc.] business heretofore conducted by him in said city, and the unexpired term of his lease of said premises, upon the following terms and conditions, to-wit:

An itemized inventory and appraisal shall be made of all of said stock in trade and fixtures within ——— days from the date hereof, at the cost thereof, excluding freight and transportation charges; and the purchase price to be paid by said party of the second part for all of the above described property shall be ——— per cent. of the total amount of the inventory and appraisal taken and made as above specified.

Said party of the second part hereby agrees to pay said purchase price in cash immediately upon the completion of said inventory and appraisal; and said party of the first part hereby agrees to execute, contemporaneously with said payment, a proper bill of sale and assignment of the lease of said premises with the written consent of his landlord thereto, and to deliver the same, together with possession of all of said property, free and clear from all incumbrances, to said party of the second part.

Said party of the first part hereby covenants and agrees to and with said party of the second part that he is the lawful owner of all of said property and has good right to sell the same, and that the same are free from all encumbrances.

In consideration of the foregoing and as an inducement to said party of the second part to pay the purchase price aforesaid, said party of the first part hereby agrees that he will not, directly or indirectly, engage in said ——— business in said City of ———, ———, for a period of ——— years from and after the date hereof, and that he will not, directly or indirectly, individually, or in connection with any partnership or corporation, come into competition

with said party of the second part and will not interfere in any manner with the business, trade, good will or customers of said party of the second part.

In witness whereof the parties have hereunto set their hands this _____ day of _____, 19—.

In presence of:

A. B.,
C. D.

Another form of the provision in restraint of trade is as follows:

The said A. B. shall not, during the term of _____ years from _____, engage except on behalf of C. D. either directly or indirectly in the trade or business of a manufacturer of _____, or in any business competing or liable to compete in any way with that for the time being carried on by C. D.; provided that such restriction shall not apply to _____. Provided also that the said A. B. shall not be released from this restriction by C. D.'s ceasing to carry on business merely for the purpose of reorganization or with a view to the transfer of the business thereof to another company or person so long as such other company or person taking a transfer thereof shall continue to carry on the same.

For the validity of contracts in restraint of trade, see §§ 770 et seq.

For breach, see § 2932.

For damages, see § 3218.

For injunction, see §§ 3386 et seq.

For other forms of covenants in restraint of trade, see §§ 3783 and 3921.

§ 3921. Contract for sale of the practice of a physician.

This contract entered into at _____, _____, this _____ day of _____, 19—, by and between A. B., of _____, party of the first part, and C. D., party of the second part, WITNESSES:

That said party of the first part, in consideration of the promises and agreements of said party of the second part herein contained, hereby promises and agrees:

1. To sell to said party of the second part the good will established by said party of the first part in the practice of his profession as a physician in the _____ of _____, County of _____, State of _____, together with his office fixtures and furniture, surgical and medical instruments now on hand, for the sum of _____ dollars (\$_____), payable as hereinafter provided;

2. To introduce said party of the second part to the patients and acquaintances of said party of the first part, as his successor, and to faithfully use his best endeavors to maintain and increase said practice for the benefit of said party of the second part; and to that end, to assist said party of the second part in receiving and treating patients during his office hours and to make all professional calls in company with said party of the second part for _____ days from the date hereof; the entire fees and compensation for the same, however, to be the property of said party of the second part;

3. That he will not reside nor practice as a physician or surgeon in said _____ of _____, State of _____, nor within _____ miles thereof for _____ years from the date hereof, and that he will not in any manner compete or interfere with the practice of said party of the second part.

In consideration whereof said party of the second part hereby promises and agrees to pay to said party of the first part said sum of _____ dollars (\$_____) as follows: the sum of \$_____ in cash upon the execution of these presents and the balance of \$_____ in instalments as follows: the sum of \$_____ on _____, 19—; the sum of \$_____ on _____, 19—; the sum of \$_____ on _____, 19—; the same to be evidenced by promissory notes for said amounts and secured by a chattel mortgage covering said medical instruments, books, furniture, drugs, medicines, etc.

It is mutually agreed by and between the parties hereto on the consideration aforesaid, that if any of said instalments of purchase price be not paid

when due or within ——— days thereafter, then this agreement may be rescinded by said party of the first part, at his option on ——— days' notice being given by him to said party of the second part, and said party of the first part shall have full right to foreclose said chattel mortgage and to resume his practice the same as if this agreement had not been made.

In witness whereof the parties have set their hands to duplicates hereof the day and year first above written.

In presence of:

_____,
_____,

A. B.,
C. D.

See references under § 3920.

§ 3922. Contract for sale of real estate.

This contract entered into this ——— day of ———, nineteen hundred and ———, between A. B. and C. B. [husband and wife], parties of the first part, and C. D., party of the second part, WITNESSES:

First.—That said C. D., for ——— and ——— heirs, executors and administrators, promises, covenants and agrees to pay the said A. B., heirs and assigns, the sum of ——— dollars, with interest from the date hereof, on all of said money not paid this day, at the rate of ——— per cent. per annum, to be paid at the maturity of each deferred payment, on all of said money then unpaid; said sum first mentioned to be paid as follows: ———.

Second.—That in consideration of the above, and upon the fulfillment of all and singular the covenants contained in this agreement to be performed and kept by the said C. D., in the manner and at the time specified herein, the said A. B. agrees to sell and convey, by sufficient warranty deed, unto the said C. D., ——— heirs and assigns, the following described real estate, situate in the ——— of ———, in the ——— of ——— and State of ———, to-wit:

Third.—That the said A. B. shall pay all taxes and assessments, which are now assessed on said real estate, and also those which shall be assessed thereon before the execution of said deed above mentioned; but all money so expended for taxes and assessments which fall due and payable after the date hereof shall be refunded to said A. B., with interest thereon at ——— per cent. per annum, before the delivery of said deed, and as soon as called for after said deed, according to this contract, should be ready for delivery.

Fourth.—That if any of said payments, either principal or interest, to be made by said C. D., be not paid when due, or if said C. D. shall, in any other manner, break this agreement, then this contract shall be forfeited on the part of the said C. D., and the said A. B. may retain in ——— hands the payment or payments then made, and possess all improvements placed upon said premises, as the stipulated damages for the non-fulfillment of this contract, and the said A. B., ——— heirs and assigns, shall be entitled to the possession of the premises aforesaid, and of all the improvements thereon, and the said C. D. covenants and agrees that ———, and all persons holding under ———, shall and will surrender possession thereof, with the improvements, to the said A. B., ——— heirs and assigns.

Fifth.—That the said A. B. covenants that he has good and lawful title to said realty; that he is the sole owner thereof; that he has power to convey the same; that the said premises are free and clear of all incumbrances except ——— and that the deed which he has heretofore agreed to execute in performance of this contract shall contain such covenants.

Sixth.—The said C. B. for her part hereby covenants to release her right of dower to the said C. D. upon the performance by the said C. D. of the covenants in this contract contained, on his part to be performed; and she further covenants that she will join the said A. B. in the deed which A. B. has heretofore agreed to make and deliver to said C. D. upon the terms and conditions aforesaid, and that she will, by such deed, release her dower in said premises to said C. D., his heirs and assigns forever.

And it is further agreed, that no sale, transfer, assignment or pledge of this contract shall be binding upon the said first party, nor shall it be of any validity or force whatever, unless such assignment, sale, pledge or transfer be made on the Original Copy in the hands of the first party.

In witness whereof, the said parties have hereunto, and to a duplicate copy hereof, set their hands the day and year first above written.

_____,
_____,
_____.

For necessity of written evidence, see §§ 1251 et seq.
For performance, see §§ 2785 and 2790 et seq.
For breach by non-performance, see § 2928.
For precedent covenants, see § 2952.
For concurrent covenants, see § 2964.
For failure of consideration, see §§ 2989 et seq.
For acceptance of defective performance, see § 3049.
For damages, see §§ 3178, 3219.
For quasi-contractual rights arising on breach, see § 3254.
For specific performance, see § 3325.
For specific performance with compensation, see §§ 3361 et seq.
For cancellation, see § 3406 et seq.

§ 3923. Storage contract.

_____, _____, 19—

Received from A. B. for storage subject to the terms and conditions herein mentioned, the property hereinafter described, to be delivered to C. D. or his assigns upon the payment of all charges and the surrender of this receipt properly endorsed. Storage charges per month, _____.

CONDITIONS

1. No goods will be stored for a period of less than one month, nor will any deduction in charges be made for fractions thereof.

2. We do not assume any liability for loss by reason of damage done by fire, water or other casualty; nor for breakage, leakage nor damage done by moth or mice.

3. All storage charges must be paid at least every three months.

4. All goods, upon which six months' storage charges have accrued and remain unpaid, may be sold at public auction, after first giving the owner thereof written notice of the time and place of such sale. If the residence of the owner of such goods be unknown a notice published once in a newspaper of general circulation in _____ County will be deemed sufficient. Notice will be given at least thirty days prior to the day of sale. Any balance after the payment of the charges and expenses will be held subject to the demands of the lawful owner.

[Insert description of property.]

In witness whereof, etc.

The X. Y. Storage Company

For the validity of a contract by which a warehouseman seeks to relieve himself from liability for negligence, see § 766.

§ 3924. Contract of subscription—General form.

We, the undersigned, in consideration of the mutual promises of one another, do hereby respectively agree to pay the sums of money set opposite our respective names for ——— [insert object for which fund is subscribed], and we agree to pay such sums as follows: ——— [insert times at which subscriptions are payable].

NAMES	AMOUNTS
A. B.	\$.....
C. D.	\$.....

For subscription to stock in a corporation, see § 3840.
 For the sufficiency of mutual promises, see § 561.
 For consideration, see §§ 560 et seq.

(Etc.)

§ 3925. Subscription agreement for endowment of a church.

In consideration of the efforts of the trustees of the ——— church, of the City of ———, Ohio, to raise an endowment fund of ——— dollars, and of the agreement of said trustees to receive, hold and apply said fund as hereinafter set forth, and further, in consideration of the mutual promises contained herein, we, the undersigned, do hereby severally promise to pay, to the treasurer of said church, the sums of money set opposite our respective names in five equal yearly payments, on or before the ——— day of each year beginning ———, 19—.

The objects, purposes and conditions of this agreement are as follows:

(a) All moneys paid hereunder shall be permanently invested as a productive fund, and the income thereof shall be applied toward the payment of the salary of the pastor and other general expenses of said church.

(b) No subscription hereunder shall be binding or payable unless the aggregate of the subscriptions hereto shall, on or before ———, 19—, amount to ——— dollars.

NAMES	AMOUNTS
A. B.	\$.....
C. D.	\$.....

See references under § 3924.

(Etc.)

§ 3926. Contract for support.

This contract entered into this ——— day of ———, A. D. 19—, by and between A. B., of the City of ———, State of ———, party of the first part, and C. D., of the City of ———, State of ———, party of the second part, WITNESSES:

That the said A. B. in consideration of the covenants on the part of said C. D. hereinafter contained, does covenant to support said C. D. during his natural life, as follows:

Said C. D. is to have the sole use and occupancy of the house and lot which are described as follows: ———.

Said A. B. covenants to maintain said house in perfect repair; and to furnish sufficient light, heat, water, gas and such other necessities and comforts.

Said A. B. furthermore agrees to pay for such servant or servants as said C. D. may wish to employ, not to exceed the sum of ——— dollars per month.

Said A. B. furthermore agrees to pay the cost of such provisions such as ice, clothing, shoes and other necessities as said C. D. may purchase, not to exceed in all the sum of ——— dollars per month. In addition thereto said A. B. covenants to pay to said C. D. the sum of ——— dollars in cash at ——— [insert place of payment] on the first day of every month, beginning with ——— [insert date of first payment]. Said C. D. is hereby authorized to charge the articles specified in this contract to the account of said A. B.; and said C. D. agrees to examine the accounts and charges submitted to A. B. and to approve the same if they are true and correct.

In consideration of the foregoing covenants said C. D. hereby agrees to convey to the said A. B., his heirs and assigns, forever, the following described realty: ——— [insert description of realty]; and the following described personalty: ——— [insert description of personalty, if any]; and the said A. B. hereby agrees, at the time of the delivery of said deed and of the transfer of said personalty, to execute and deliver to the said C. D., his heirs and assigns, forever, a mortgage upon the property thus conveyed, to secure the performance of this contract.

If said A. B. shall die before this contract is to be performed, it is hereby agreed by the parties that the heirs, devisees, executors and administrators of the said A. B. may perform said contract at their election; and that if they so elect and well and truly perform said contract, the death of said A. B. shall not in any way affect the rights of the parties hereunder; but if the said heirs, devisees, executors and administrators of the said A. B. shall not elect to perform said contract, the said A. B. for himself, his heirs, devisees, executors, administrators and assigns, does covenant that his said heirs, devisees, executors, administrators and assigns, will reconvey to the said C. D. the property which the said C. D. has covenanted to transfer to the said A. B., in performance of this contract; and that the executors and administrators of the said A. B. will pay to the said C. D. the further sum of ——— dollars as liquidated damages for the non-performance of this contract during the remainder of the life of C. D.

In witness whereof, etc.

Additional clauses may be inserted making provision for furnishing other necessities and luxuries such as an automobile, nursing, medicine, attendance of a physician and the expenses of the funeral and a provision for a tombstone.

If the contract is made for the support of husband and wife, and the like, provision should be made for the change of circumstances which will follow the death of one of them.

A contract for furnishing support should always specify where such support is to be furnished; whether at a place agreed upon by the parties in advance, at a place to be selected by the party who furnishes the support, or at a place to be selected by the party to whom such support is to be furnished.

Contracts of this sort are frequently made without consideration of the consequences to either party, and are likely to result in suits for rescission. If such contracts are to be made, a definite understanding of the details of performance should be reached in advance.

For implied contracts to compensate for support, see §§ 1444 et seq.

For extras, see §§ 1459 et seq.

For failure of consideration, see § 2988.

For cancelation for breach, see § 3415.

§ 3927. Telegram.

Form _____

CLASS OF SERVICE DESIRED

Telegram
Day Letter
Night Message
Night Letter

Patrons should mark an X opposite the class of service desired; OTHERWISE THE MESSAGE WILL BE TRANSMITTED AS A FULL-RATE TELEGRAM

X. Y. TELEGRAM

Receiver's No. _____

Check _____

Time Filled _____

(Send the following message, subject to the terms on back hereof, which are hereby agreed to)

To A. B.,

Street and No. _____

Place _____

(Message) _____

C. D.

ALL MESSAGES TAKEN BY THIS COMPANY ARE SUBJECT TO THE FOLLOWING TERMS:

To guard against mistakes or delays, the sender of a message should order it repeated, that is, telegraphed back to the originating office for comparison. For this, one-half the unrepeatd message rate is charged in addition. Unless otherwise indicated on its face, this is an unrepeatd message and paid for as such, in consideration whereof it is agreed between the sender of the message and this company as follows:

1. The company shall not be liable for mistakes or delays in the transmission or delivery, or for non-delivery, of any message received for transmission at the unrepeatd-message rate beyond the sum of five hundred dollars; nor for mistakes or delays in the transmission or delivery, or for non-delivery, of any message received for transmission at the repeated-message rate beyond the sum of five thousand dollars, unless specially valued; nor in any case for delays arising from unavoidable interruption in the working of its lines; nor for errors in cipher or obscure messages.

2. In any event the company shall not be liable for damages for mistakes or delays in the transmission or delivery, or for the non-delivery, of any message, whether caused by the negligence of its servants or otherwise, beyond the sum of five thousand dollars, at which amount each message is deemed to be valued, unless a greater value is stated in writing by the sender thereof at the time the message is tendered for transmission, and unless the repeated-message rate is paid or agreed to be paid, and an additional charge equal to one-tenth of one per cent. of the amount by which such valuation shall exceed five thousand dollars.

3. The company is hereby made the agent of the sender, without liability, to forward this message over the lines of any other company when necessary to reach its destination.

4. Messages will be delivered free within one-half mile of the company's office in towns of 5,000 population or less, and within one mile of such office in other cities or towns. Beyond these limits the company does not undertake to make delivery, but will, without liability, at the sender's request, as his agent and at his expense, endeavor to contract for him for such delivery at a reasonable price.

5. No responsibility attaches to this company concerning messages until the same are accepted at one of its transmitting offices; and if a message is sent to such office by one of the company's messengers, he acts for that purpose as the agent of the sender.

6. The company will not be liable for damages or statutory penalties in any case where the claim is not presented in writing within sixty days after the message is filed with the company for transmission.

7. Special terms governing the transmission of messages under the classes of messages enumerated below shall apply to messages in each of such respective classes in addition to all the foregoing terms.

8. No employee of the company is authorized to vary the foregoing.

The X. Y. Telegraph Company (Incorporated).

CLASSES OF SERVICE

Telegrams.—A full-rate expedited service.

Night Messages.—Accepted up to 2:00 A. M. at reduced rates to be sent during the night and delivered not earlier than the morning of the ensuing business day.

Night Messages may at the option of the Telegraph Company be mailed at destination to the addressees, and the Company shall be deemed to have discharged its obligation in such cases with respect to delivery by mailing such Night Messages at destination, postage prepaid.

Day Letters.—A deferred day service at rates lower than the standard telegram rates as follows: One and one-half times the standard Night Letter rate for the transmission of 50 words or less and one-fifth of the initial rates for each additional 10 words or less.

Special Terms Applying to Day Letters:

In further consideration of the reduced rate for this special Day Letter service, the following special terms in addition to those enumerated above are hereby agreed to:

(a) Day Letters may be forwarded by the Telegraph Company as a deferred service and the transmission and delivery of such Day Letters is, in all respects, subordinate to the priority of transmission and delivery of regular telegrams.

(b) Day Letters shall be written in plain English. Code language is not permissible.

(c) This Day Letter is received subject to the express understanding and agreement that the Company does not undertake that a Day Letter shall be delivered on the day of its date absolutely and at all events; but that the Company's obligation in this respect is subject to the condition that there shall remain sufficient time for the transmission and delivery of such Day Letter on the day of its date during regular office hours, subject to the priority of the transmission of regular telegrams under the conditions named above.

No employe of the Company is authorized to vary the foregoing.

Night Letters.—Accepted up to 2:00 A. M. for delivery on the morning of the ensuing business day, at rates still lower than standard night message rates, as follows: The standard telegram rate for 10 words shall be charged for the transmission of 50 words or less, and one-fifth of such standard telegram rate for 10 words shall be charged for each additional 10 words or less.

Special Terms Applying to Night Letters:

In further consideration of the reduced rate for this special Night Letter service, the following special terms in addition to those enumerated above are hereby agreed to:

(a) Night Letters may at the option of the Telegraph Company be mailed at destination to the addressees, and the Company shall be deemed to have discharged its obligation in such cases with respect to delivery by mailing such Night Letters at destination, postage prepaid.

(b) Night Letters shall be written in plain English. Code language is not permissible.

No employe of the Company is authorized to vary the foregoing.

For the validity of provisions relieving a telegraph company from liability for negligence, see § 761.

§ 3928. Contract for telephone service.

_____, _____, 19____.

The Subscriber requests the X. Y. Telephone Company (hereinafter styled the Company) to install and maintain at _____ a telephone on copper metallic circuit _____ [with not exceeding _____ other telephones on the same line], connecting it with the Company's _____ Exchange, and furnish exchange service to the Subscriber, his agents or employees, only, for one year from the date of installation and thereafter until this contract is terminated as provided herein-after; and agrees to pay for the use and maintenance of the same and exchange service with the following exchanges, to wit: _____, for each year \$_____, payable quarterly in advance, and for all messages to points other than the foregoing exchanges, such tolls as are now or may be hereafter established; bills for such messages to be payable monthly on the _____ day of each month for the messages of the preceding month.

For the purpose of furnishing telephone service, the Company acts as the agent of the user of the telephone, and in view of the liability to errors incident to transmitting oral messages by telephone and the impossibility of fairly fixing the cause thereof, the Subscriber assumes all risks of errors arising from non-connections, mis-connections, and mistakes of servants and employees in transmitting, receiving or delivering messages.

Interruptions in service arising from causes other than the negligent or willful interference of the Subscriber shall be rebated pro rata for the time, after receipt of written notice, which such interruption shall continue, exceeding twenty-four hours, and such rebate shall constitute the only liability of the Company resulting therefrom.

Within a reasonable time after receipt of written order, and at the expense of the Subscriber, the Company will move the telephone and other equipment from place to place to any convenient point within the limits of the zone of exchange service hereinbefore described, where such removal does not involve change in the character of service or the terms hereof, and this contract continues binding, after any such removal, at new location.

Either party may terminate this contract at the expiration of the period above named upon giving ten (10) days' written notice to the other of its intention so to do, otherwise this contract will renew itself thereafter quarterly until receipt of such notice, and when so terminated the Company shall be entitled to payments pro rata to the date of termination only.

Non-payment of rental or tolls when due as herein provided, violation of any of the provisions hereof, misuse of the property installed, the persistent use of said telephone in a way calculated to annoy other subscribers or the attachment by the Subscriber of any instrument or appliances to lines or telephones, without the consent of the company, will justify the termination of this contract by the Company and the removal of the instrument and fixtures from the premises of the Subscriber.

The telephone and other appliances furnished to be and remain the property of the Company, whose employes shall be permitted to enter the premises where the telephone may be located for the purpose of installing, inspecting, repairing, or removing the same.

This application becomes a binding contract upon its acceptance in writing by the Company and none of the terms hereof can be changed or waived by the representations or promises of any solicitor or other person, except in writing and signed by the general manager of the Company.

_____, Subscriber.

Witness _____.

Accepted: The X. Y. Telephone Company,

By _____.

§ 3929. Theatrical contract—Author and producer.

Agreement made and entered into the _____ day of _____, 19____, by and between A. B., of _____, State of _____, through his authorized agents, the E. F. Agency, hereinafter known as the party of the first part, and C. D., of _____, _____, hereinafter known as the party of the second part.

Whereas the party of the first part is the author and owner of an original play in four acts known by its present title of "The X. Y. Incident," and

Whereas the party of the second part desired the sole and exclusive rights to produce and present, or to cause to be produced and presented, the said play in the United States of America and in the Dominion of Canada.

Now therefore in consideration of the sum of _____ dollar (\$_____) to each to the other in hand paid, the receipt of which is hereby mutually acknowledged, and in view of further considerations moving between the parties hereto as may hereinafter appear, the parties herein mentioned agree with the other as follows:

First.—The party of the first part agrees to transfer and lease, and hereby does transfer and lease unto the party of the second part the sole and exclusive rights to produce and present, or to cause to be produced and presented, the said play in the United States of America and in the Dominion of Canada, for

which transfer and lease the party of the second part agrees to pay to the party of the first part, through his authorized agents, as hereinbefore mentioned, at their offices located in the City of —, State of —, the sum of — dollars (\$—) upon the signing and execution of this agreement, which sum shall be considered to be an advance of author's royalties; but under no consideration is this sum nor any part of it to be returned to the party of the second part, but if the said play shall be produced and presented within the time limit as hereinafter provided, the said sum shall be credited to the account of the party of the second part as hereinafter provided.

Second.—The party of the second part agrees to pay to the party of the first part, through his authorized agents as hereinbefore mentioned, these further sums in author's royalties:

— percent (—%) of the first — dollars (\$—) gross weekly box-office receipts; — percent (—%) of the next — dollars (\$—) gross weekly box-office receipts; and — percent (—%) of all gross weekly box-office receipts above — dollars (\$—) each week.

Third.—If the said party of the second part has not produced and presented, or caused to be produced and presented the said play on or before the — day of —, 19—, he may by a further payment of — dollars (\$—) to the party of the first part, through his authorized agents as hereinbefore mentioned, be privileged to hold the play until —, 19—. Said — dollars (\$—) is to be applied as advance of royalty, but under no consideration is this sum nor any part of it to be returned to the party of the second part, but if the said play is produced within the time limit herein provided for, the sum is to be deducted from first royalties earned. If the party of the second part has not produced and presented or caused to be produced and presented the said play by —, 19—, then all the rights in and to the said play granted by the party of the first part to the party of the second part, as herein provided, shall cease and determine and shall revert to the party of the first part to be disposed of as may seem best to him.

Fourth.—If during the first season of the said play said season to date from the — day of — to the last day of —, the said play has been produced and presented for — (—) regular touring performances (performances in all cities to be classed as "touring performances"), then and in that event the party of the second part shall thereupon acquire in perpetuity all producing rights in and to the said play in the United States of America and in the Dominion of Canada.

Fifth.—The party of the first part will promptly at the request of the party of the second part, make such reasonable, necessary changes, additions and eliminations in and to the text, dialogue or "business" of the said play as may be mutually satisfactory to him and to the party of the second part, and the title of the said play may likewise be changed by mutual consent. It is further agreed that the cast chosen by the party of the second part shall be reasonably acceptable to the party of the first part.

Sixth.—The party of the first part shall attend rehearsals and offer suggestions to the party of the second part as to the production of the said play, and shall also attend public performances for the first — weeks of the said play without further consideration or compensation than the said royalties, except that if the party of the first part shall be required to attend in other places than the City of —, the party of the second part shall pay to the party of the first part his reasonable hotel and travelling expenses.

Seventh.—The party of the second part agrees to furnish to the party of the first part, through his authorized agents, as hereinbefore mentioned, box-office

statements of the gross daily receipts of the said play wherever and whenever performed and presented in the United States of America, or in the Dominion of Canada, said statements to be signed by the representative of the party of the second part as well as by the manager or the treasurer of the theatre in which such performances or representations may be given, and further agrees to give to the party of the first part, through his authorized agents as hereinbefore mentioned, said statements together with the amount of money due him for royalties under the terms of this agreement, not later than the Saturday following the week in which such royalty may be earned.

Eighth.—The party of the second part agrees to give prominence to the name of A. B. as sole author of the said play upon programmes, announcements and all other advertising and printing matter used by the party of the second part wherever the title of the said play appears, such matter to include bill-boards, newspaper advance notices (when possible) as well as newspaper advertisements of one inch or more.

Ninth.—In consideration of the royalties paid to the party of the first part by the party of the second part, the party of the first part hereby grants unto the party of the second part the stock rights in and to the said play, after the said play has been produced and presented for ——— (——) performances, said performances to be given in the countries mentioned herein and at least ——— (——) of these performances to be given in the City of ——— in a first class theatre; the said stock rights being granted upon the following terms: In lieu of royalties to be paid to the party of the first part by the party of the second part as provided for in the second paragraph of this agreement, all money derived from the leasing of the said play in stock shall be divided as follows: ——— percent (——%) of all sums so received shall go to the party of the first part, through his authorized agents as hereinbefore mentioned, and ——— percent (——%) of all money so received shall go to the party of the second part.

Tenth.—In further consideration of the royalties paid to the party of the first part by the party of the second part, the party of the first part hereby grants to the party of the second part the motion picture rights in and to the said play after the said play has been produced and presented for ——— (——) performances, said performances to be given in the countries mentioned herein and at least ——— (——) of these performances to be given in the City of ——— in a first class theatre; the said motion picture rights being granted upon the following terms: In lieu of royalty to be paid to the party of the first part by the party of the second part as provided for in the second paragraph of this agreement, all money that shall be received by the party of the second part through the sale or lease of the motion picture rights of the said play to another than himself, or if produced by himself or by a company in which he may be directly, or indirectly interested, shall be divided as follows: ——— percent (——%) of all sums so received shall go to the party of the first part, through his authorized agents as hereinbefore mentioned, and ——— percent (——%) of all sums so received shall go to the party of the second part.

Eleventh.—The parties herein mentioned agree that when the said play released to the Stock House or to the Motion Picture Companies, it shall be through the authorized agents of the party of the first part as hereinbefore mentioned, but only at a price that shall be fixed by the party of the second part, and for the services rendered in this connection the said agents shall receive ——— percent (——%) of the gross sums so received.

Twelfth.—Should the party of the second part desire, after two consecutive week's performances of the said play in the United States of America, or in the Dominion of Canada, to produce and present the said play by more than one

company of players, in the United States of America, or in the Dominion of Canada, the said party of the second part shall have the right to do so, and in that event, each company shall be treated, for the purpose of computing the royalty hereunder, as a separate undertaking, and such royalty shall be separately computed and paid according to the percentage provided for in paragraphs two and seven of this agreement.

Thirteenth.—In further consideration of the advance royalty paid to the party of the first part by the party of the second part, the party of the first part hereby grants to the party of the second part an option on the said play for use in Great Britain and all other countries of the world for a period of _____ days from the date of the first performance of the said play in _____. On or before the expiration of the said _____ days should the party of the second part elect to exercise the said option he shall pay to the party of the first part, through his authorized agents as hereinbefore mentioned the sum of _____ dollars (\$_____) as advance royalty, and the said party of the first part and the said party of the second part agree to make a contract through the authorized agents of the party of the first part as hereinbefore mentioned, for the use of said play in Great Britain and all other countries of the world, under the same terms, agreements and conditions, as in this existing contract.

Fourteenth.—If the said party of the second part shall fail to fulfill any of the conditions set forth in this agreement, then and in that event, upon receiving written notice from the authorized agents of the party of the first part, setting forth wherein the party of the second part has violated any terms or conditions of this agreement, the party of the second part shall have _____ days within which to rectify any act done, or left undone, or to comply with any term or condition claimed to have been violated or breached in any manner, and upon failure of the party of the second part to do so, then all rights in and to the said play, granted by the party of the first part to the party of the second part, shall cease and determine and shall revert to the party of the first part to be disposed of as may seem best to him, but without prejudice to any right or rights to compensation or damages, or a cause of action that the said party of the first part may or might have in respect to any breach or breaches of this agreement.

Fifteenth.—The agreements hereto are binding upon the heirs, executors, administrators, representatives and assigns of the parties above mentioned.
In witness whereof, etc.

For form of assignment, see § 3930.

For forms of motion picture contracts, see §§ 3898 and 3899.

§ 3930. Theatrical contract—Assignment of interest.

This agreement made this _____ day of _____, 19____, by and between A. B., of the _____, and State of _____, and the X. Y. Corporation, a corporation duly organized and existing under and by virtue of the laws of the State of _____, hereinafter called the "Assignors," and C. D. and E. F. of the City of _____, State of _____, hereinafter called the "Assignees," WITNESSETH:

Whereas, the said A. B. did heretofore acquire the exclusive producing rights of, in and to a certain play entitled, _____ from G. H. the author thereof, by virtue of a written agreement dated in or about the _____ day of _____, 19____, and thereafter duly assigned certain rights of, in and to said play to the said X. Y. Corporation;

Now, therefore, in consideration of the premises and the sum of _____ dollars (\$_____), lawful money of the United States, the receipt whereof is

hereby acknowledged, and the covenants and promises herein contained, it is hereby covenanted and agreed as follows:

First.—The Assignors do hereby sell, assign, transfer and set over unto the Assignees an undivided ——— (———%) per cent interest of, in and to all the producing rights, except motion pictures, of the said play entitled, ——— for the United States of America, the Dominion of Canada, and elsewhere, and do hereby further agree to pay to the Assignees ——— (———%) per cent of all gross profits accruing from all productions and performances of the aforesaid play, except motion pictures, the said Assignors and each of them hereby representing that no agreement or contract has been made by either of them in connection with any of the rights to the aforesaid play except as heretofore referred to and it being distinctly understood and agreed that the said Assignees shall be in no way responsible or held liable for any obligation, debt or otherwise incurred in the production or performance of the aforesaid play by any means whatsoever.

Second.—Provided the Assignors or either of them acquire a ——— (———%) per cent interest or share or otherwise in the royalties accruing from sub-lettings and sub-leasings of the rights of the said play for stock, repertoire, or chautauqua engagements, or to stock, repertoire, or chautauqua companies, the said Assignors do hereby agree to sell, assign, transfer and set over, and do hereby sell, assign, transfer and set over unto the Assignees a ——— (———%) per cent interest in all the royalties accruing from all the sub-lettings and sub-leasings of the rights to the aforesaid play to stock, repertoire, or chautauqua companies, and for stock, repertoire, and chautauqua engagements.

Third.—The Assignors do hereby covenant and agree that the payment of all sums or royalties herein shall be made by draft on ———, or paid in cash to the Assignees or their designated authorized agent not later than ——— of each week, during which performances of the aforesaid play shall be given, all said payments to be made in full for performances given, and each of said payments shall at all times be accompanied by a proper box-office statement duly certified to by the manager or treasurer of each theatre where the said play shall have been given, and for each and every performance thereof that may be given, the said Assignors agreeing that the said Assignees or their authorized agent shall at all times have the right and privilege to examine all accounts and vouchers appertaining to the gross receipts of all performances of said play which may be given.

Fourth.—The said Assignors do hereby represent that they or either of them have not entered into any agreement or contract whatsoever in connection with any of the rights of the aforesaid play with any person, firm, corporation or association, and have not in any way hypothecated, pledged or encumbered in any manner any of the rights of the aforesaid play.

Fifth.—Option is hereby granted unto the Assignees to assign this agreement together with all the rights and interest therein and to any and all income or sums of moneys accruing therefrom to any person, firm or corporation.

Sixth.—This agreement shall be binding upon the respective parties hereto, their legal representatives, heirs, successors and assigns.

In witness whereof, etc.

In consideration of the purchase of the rights and interest of, in and to the aforesaid play entitled, ——— by C. D. and E. F. from A. B. and the X. Y. Corporation as set out in the above instrument of assignment, and in consideration of the sum of ——— dollars (\$———), lawful money of the United States, the receipt whereof is hereby acknowledged, and the covenants herein contained and these premises. I, G. H. of the ———, State of ———, the author of the said play,

Do hereby consent to and do hereby acknowledge the right of the said A. B. and the said X. Y. Corporation to enter into the above instrument of assignment and I do for myself, my heirs, legal representatives and assigns, covenant and agree to and do hereby sell, assign, transfer and set over to the said C. D. and E. F., their heirs, legal representatives and assigns, a _____ (_____%) per cent. interest in all the royalties accruing from all sub-lettings and sub-leasings of the aforesaid rights of the aforesaid play for stock, repertoires, or chautauqua engagements, and to stock, repertoire, or chautauqua companies, provided such interest shall revert to me, the undersigned, at any time under any and all agreements or contracts made with the said A. B. or the X. Y. Corporation or otherwise.

In witness whereof, etc.

By _____, President.

For forms of assignment in general, see §§ 3785 to 3799.

§ 3931. Theatrical contract—Producer and theatre owner.

THEATRE CONTRACT

Memorandum of agreement, entered into this _____ day of _____, 19—, between A. B., party of the first part and C. D., party of the second part.

Whereby it is mutually agreed that said party of the first part hereby engages to play _____ [insert name of play] at _____ for the term of _____ and _____ matinee—, to commence _____ and terminating _____ making in all _____ performances.

Said party of the second part agrees to furnish for above time and to the above attraction the _____ lighted, heated, cleaned and licensed; necessary attaches to work in front of theatre and stage; usual orchestra and advertising in daily papers and house programmes, ticket and ticket sellers; bill posting and distributore; to furnish the resources of the theatre in scenery, set stuff, furniture and appointments and imperishable properties. Employees of the theatre to assist in carrying scenery and baggage to and from stage door to the stage and dressing rooms, and deliver same outside of stage door immediately after last performance. The free list and prices to be under the control of the party of first part. Piano to be furnished. _____.

The said party of the first part in consideration of _____ dollar in hand paid (the receipt of which is hereby acknowledged), and of certain payments herein named, made by said party of the second part, agrees to faithfully perform at the above theatre for the above time and will not perform previously at any other place of entertainment in said city during the season, furnishing entire entertainment on the stage, and such display printing as may be necessary, with dates for same, and conform to the rules and regulations which govern said place of entertainment.

Returns of houses made from the boxes regulated by office sales. Only the regular tickets of the theatre sold or received at the doors. Settlements and payments made nightly.

In the event of destruction by fire, national or local calamities, or any other unforeseen accident arising, which shall render the fulfillment of this contract by the party of the first or second part impossible, neither party shall be held legally responsible for any damages caused thereby.

Either party to this agreement shall have the right to cancel same by giving four weeks' notice to the other party in writing.

For the faithful observance and fulfillment by said party of the first part of each and all of the above conditions, the said party of the second part agrees to pay him or his representatives the sum resulting from the following terms:

In witness whereof, etc.

For a similar form for producing motion pictures, see § 3899.

§ 3932. United States—Contract for manufacturing at cost, plus fixed profit, etc.Contract No. _____
Order No. _____Proposal No. _____
Req. No. _____**SIGNAL CORPS UNITED STATES ARMY**
Contract for Aeronautical Equipment

These Articles of Agreement, entered into this _____ day of _____, 19—, by and between the X. Y. Company, a corporation organized and existing under the laws of the State of _____, party of the first part, hereinafter called the "Contractor," and the United States of America, hereinafter called the "Government," represented by A. B., Signal Corps of the United States Army, hereinafter referred to as the "Contracting Officer," acting by the authority of the Chief Signal Officer of the United States Army, and under the direction of the Secretary of War, party of the second part, WITNESSETH:

Whereas, Congress having declared by joint resolution, approved April 6, 1917, that war exists between the United States of America and the Imperial German Government, constituting a national emergency, and

Whereas, the United States requires and is not able with the facilities at its disposal to furnish a sufficient quantity of aeronautical equipment for its purposes.

Now, therefore, under the provisions of Section 120 of an Act of Congress relating to national defense, approved June 3, 1916, and pursuant to all other laws of the United States and executive orders of the President of the United States, or heads of its departments, under which requirements for advertisement for proposals are dispensed with and contracts in the form hereof duly authorized, the President hereby places the following order with the Contractor with the requirement that it comply with the contract hereinafter set forth, and in consideration of the mutual agreements herein contained, said parties have agreed and by these presents do agree to and with each other as follows, viz.:

Article I. Articles Contracted for.—The Contractor shall make for the Government the following articles hereinafter called "the articles," namely: Five hundred (500) U. S. A. standardized 12-cylinder aircraft engines, in accordance with the drawings and specifications attached hereto, and further identified in the order hereto attached, including all authorized changes thereof, and to deliver the same f. o. b. the Contractor's works, packed for shipment in the manner covered by the specifications, and, as nearly as possible under existing circumstances, at the times and in the quantities hereinafter set forth or as set forth in the order hereto attached, and the Government shall accept the articles and pay therefor, all upon the terms and conditions in this contract set forth.

Article II. General Provisions.—Time being of the essence of this contract, the Contractor agrees to provide with the utmost dispatch, at the best prices obtainable:

(1) Such administrative, purchasing, manufacturing and accounting organization,

(2) Such plant, machinery and tools, and other facilities, including such facilities in addition to the Contractor's normal facilities (hereinafter called "increased facilities") and

(3) Such labor, material, supplies, and the like, as may be necessary to enable the articles to be made, and all the requirements of this contract, including the requirements in respect to the storage and delivery of the articles

contemplated herein to be complied with in manner satisfactory to the Contracting Officer.

The Contractor in dealing with parties other than the Government, shall make all sub-contracts, purchases, payments and other arrangements for the performing of this contract, in its own name and for its own account, and shall not bind or purport to bind the Government.

The Contractor shall, unless otherwise directed by the Contracting Officer, insert in every contract made for increased facilities, materials, supplies and the like, relating to the performance of this contract, a provision that such contract may be assigned by the Contractor to the Government or its nominee, and that such contract relates to a main contract between the Contractor and the Government.

All property paid for by the Government, unless hereinafter otherwise provided, shall upon such payment become the property of the Government, and shall be properly identified as property of the Government, and shall be so marked as the Contracting Officer may, from time to time, direct.

The Contractor hereby waives and releases all lien or right of lien now existing or which may hereafter arise for work or labor performed or materials furnished, or for any other reason or cause under this contract, under any lien laws, States or Federal, upon the articles or any component parts, material, supplies, or other property coming into its possession which it is contemplated shall presently or ultimately become the property of the Government.

The Government may, at its option, from time to time, furnish the Contractor with any increased facilities, or raw materials relating to the performance of this contract, provided, however, that the Contractor's undertakings for like facilities or raw materials, made in good faith, are not thereby interfered with, or the cost thereof increased.

In case the Contractor shall desire the Government to furnish it additional plant, machinery or facilities, the same shall be made the subject of a separate agreement.

Article III. Deliveries.—The Contractor agrees to deliver the articles according to the following schedule: — [insert times and quantities].

In view of the present uncertain factors inherent in the articles, and in the establishment of the industry of producing them, it is understood that this schedule may require revision, but inasmuch as speed of production is vital to the best interests of the Government and the People of the United States, the Contractor agrees that it will, if possible, and if requested to do so by the Contracting Officer, anticipate the foregoing schedule, and agrees to give the performance of this contract precedence over all other work for parties other than the Government.

The Contractor shall not be responsible for delays, caused by strikes, fires, casualties, acts of God or the public enemy, riots, incendiarism, or any act of the Government or other cause beyond the control or without the fault of the Contractor, this provision, however, not relieving the Contractor from using his best efforts to remove such cause and continuing performance with the utmost dispatch whenever such cause is removed.

The Contractor, from time to time, will, and at any time upon request of the Contracting Officer, shall furnish to the Contracting Officer, statements and reports upon the progress of the work and any and all factors relating to the delivery of the articles.

Delivery of the articles, suitably packed, boxed, and marked as required by the Contracting Officer, shall be made to the Contracting Officer, f. o. b. at the plant of the Contractor at —, —, but the Contractor, at the cost and risk of the Government, shall store the articles for so long a

period, not exceeding six months, as the Contracting Officer shall request, providing such space and buildings as may be practicable for adequate and safe storage, and in determining such cost, the rental for the use of the land and buildings of the Contractor, shall be determined as hereinafter, in Article XI, provided, and also at the cost of the Government, the Contractor shall ship the articles to any point in the United States, making all arrangements for transportation, all according to the instructions of the Contracting Officer.

If the Contractor is requested to store the articles, such storage must not delay acceptance of and payment for the articles.

Article IV. Price.—The price to be paid to the Contractor for the articles herein contracted for shall be the sum of the following items:

(1) The actual cost of production as in Article V hereof defined and in Article VII hereof determined.

(2) The sum of nine hundred thirteen dollars and five cents as fixed profit on each article delivered and accepted.

(3) An amount for saving effected determined according to the provisions of Section (7) of Article VI hereof, provided that in case of the termination of this contract under the provisions of Article XI this item shall be the amount therein provided on all articles to which it shall apply.

Article V. Definition of Actual Cost.—The actual cost of production of the articles hereby contracted for, hereinafter sometimes called "Actual Cost," shall be determined as set forth in Article VII, and is hereby defined as consisting of and including the following elements:

(1) The cost of all direct labor definitely ascertainable as used in the production of the articles herein contracted for.

(2) The cost of all direct materials and supplies definitely ascertainable as entering into or expended in the production of the articles herein contracted for.

(3) A fair amount to cover the depreciation accruing during the period of production of the articles under this contract on that portion of the plant, equipment and facilities owned by the Contractor and used in or necessarily rendered idle on account of the production of the articles herein contracted for and properly chargeable thereto.

(4) A fair proportion of overhead expenses other than that included in item (3). If the method of distributing overhead expenses now and heretofore in use by the Contractor shall be found to be fairly accurate, it shall be followed by the contracting or accounting officer in distributing overhead hereunder. By the term "overhead expenses" is meant the indirect labor and other manufacturing expenses, and the general and administrative expenses applicable to and necessary in connection with the production of the articles contracted for herein, provided that nothing herein shall be deemed to include interest, rent, advertising, collection expense, credit losses, discounts, and such taxes as income and excess profit taxes imposed by the Government of the United States.

The specific definition of the terms used in the foregoing paragraphs (1) to (4), and the determination provided for in Article VII, shall be in general accordance with the provisions of the "Memorandum on Definition of Actual Cost and on Method of Collating Cost Data."

Hereunto attached is Schedule A, which is hereby made a part of this agreement as fully as if the same were incorporated in the body hereof. Elements of cost, not included in the foregoing paragraphs, but provided for in the said Schedule A, shall be included in actual cost, and shall be subject to the provisions of Schedule A.

All of the above provisions shall be equally applicable to the cost of increased facilities in this contract elsewhere provided for.

Article VI. Payments.—The Government will pay the following items within ten days of their determination, unless otherwise herein provided, as follows:

(1) For all direct materials, supplies and equipment accessories, purchased by the Contractor and necessary for the purpose of this contract, and which have been delivered to and accepted by the Government (which shall be deemed to have been accepted by the Government unless rejected within five days after tender of delivery to the Accounting Officer), an amount not exceeding the cost thereof, provided that the Government shall have the right to pay such amounts direct to the vendor, provided further that to the extent that the Contractor shall purchase any such materials and equipment accessories which he shall not deliver to the Government, he shall in due time be paid as in Section (2) hereof provided.

(2) The cost of all direct materials and supplies definitely ascertainable as having actually entered into or been expended in or fabricated for use in connection with the production of the articles hereby contracted for, which shall be determined weekly or at any longer regular interval, at the option of the Contractor; provided that the Government has not previously paid for such costs, or any portion thereof, either under the terms of this section or under other provisions of the contract.

(3) An amount equal to the payroll of the preceding week for direct labor definitely ascertainable as having been used in the production of the articles herein contracted for, complete and in process, and properly chargeable thereto; but, at the option of the Contractor, any regular interval longer than a week may be substituted for the weekly periods.

(4) Amounts included in the Actual Cost, for depreciation and other items of overhead, not previously paid for by the Government, which shall be determined monthly or at longer regular intervals at the option of the Contractor, provided that those items of indirect labor which are ascertainable shall be paid weekly and the balance of indirect labor shall be paid monthly.

(5) All amounts included in the Actual Cost of the articles herein contracted for and not previously paid for, which shall be determined upon the completion or termination of this contract.

(6) The sum of nine hundred and thirteen dollars and five cents (\$913.05) for each unit delivered and accepted, as a fixed profit, all of which shall be paid in each week upon units delivered and accepted in the previous week, not previously paid for under this Section, and the remainder upon the completion of the contract.

(7) As an inducement to economy in the production of the articles, and in consideration of any saving to the Government which the Contractor may effect below the estimated cost of the articles as set forth in Article V hereof, there shall be paid to the Contractor a sum for saving effected by the Contractor determined as follows:

The Estimated Cost of each Article upon which savings are based is ——— (\$———). Such Estimated Cost is composed of and includes all elements of Actual Cost, as in Article V hereof defined, excluding, however, royalties paid by the Contractor, and the cost of special tools provided by the Contractor for the purpose of this contract exclusively. At the completion or termination of the contract for reasons other than the default of the Contractor, the total Actual Cost of all articles, completed and accepted, shall be determined; provided that in case the Government shall furnish to the Contractor, in accordance with the privilege reserved to it under Article II hereof, any raw materials relating to the performance of this contract, which, if furnished by the Contractor, would have constituted a part of cost of production as defined in Article V, such raw material shall, for the purpose of

computing the amount to be paid to the Contractor, under this Section (7) be charged as a part of the Actual Cost at cost to the Government of such raw material, plus cost of delivery thereof at the Contractor's plant; and there shall be deducted therefrom the amount of royalties therein included, and the cost of special tools provided by the Contractor for the purpose of this contract exclusively. In case the Actual Cost shall be increased by reason of changes in the specifications as in Article X hereof provided, or increases in the rate of wages under any act, determination, decision or award of any board, commission, body or authority which the Contractor is required by the Government to comply with, the total amount of increase due to either or both of these causes shall be deducted from the total Actual Cost; and the total amount of decreases in the total Actual Cost due to changes in the specifications shall be added to Actual Cost. If the amount so arrived at shall be less than the total Estimated Cost of all the units, completed and accepted, the Government shall pay the Contractor, on account of such saving, twenty-five per cent. (25%) of such difference. But if the amount of the average actual cost so arrived at of all articles delivered and accepted shall, except on account of causes beyond the Contractor's control, exceed by ——— (\$——) the estimated cost of each article as modified above, then the Contractor shall pay to the Government fifty per cent. (50%) of such excess above the sum of such estimated cost and said ——— (\$——), multiplied by the number of articles accepted and delivered hereunder, provided, however, that the Contractor need pay no part of such excess unless it is permitted to complete one-half of the Articles contracted for.

The Accounting Officer may, from time to time, estimate the amount due on account of savings and payable hereunder.

(8) In case, but only in case, the Government shall have by separate agreement undertaken to pay for the same, the cost of increased facilities as defined and determined in accordance with Articles V and VII hereof shall be paid from time to time against the delivery of any part thereof to the Contractor.

(9) The amounts advanced by the Contractor to cover the cost of shipping the articles, as provided in Article III hereof, shall be paid upon the proper certificate of the officer in charge of the Accounting Section of the Division of Finance of the Signal Corps, that the Contractor has paid the same for and on behalf of the Government.

(10) The amounts due as rental by the Government to the Contractor under Articles III, XI and XIII hereof shall be paid monthly, final payment to be made as soon as possible after the Government shall have ceased to use the property for which such rentals are payable. For the purpose of determining the amounts due hereunder the rents shall be deemed to accrue from day to day.

(11) All other amounts due under any of the provisions of this contract, not otherwise provided for, shall be paid upon the completion or termination of this contract, provided that amounts due for storage under Articles III and XIII hereof shall be paid at least once every two months during the period when such storage costs are being incurred.

Expenditures made by the Contractor prior to the date of this contract shall be paid if, had such expenditures been made subsequent to the date hereof the same would have been payable hereunder.

Every determination of Actual Cost, and the other factors under this Article VI necessary to the determination of the amount due or payable under any part thereof, shall be subject to correction and adjustment at each successive computation, provided that this shall not be deemed to compel the Government to make such corrections and readjustments before the final adjustment hereunder, and a final adjustment shall be made upon the completion or termination of the contract, and any and all amounts due by either of the

parties hereto to the other, shall be immediately paid, provided that if an amount shall be found due to the Contractor, the same shall be paid only upon presentation of a proper voucher as hereinafter provided.

No payment shall be made except upon a voucher wherein the officer in charge of the Accounting Section of the Division of Finance of the Signal Corps of the United States Army, or his duly authorized representative, hereinafter sometimes called the "Accounting Officer," shall certify the amounts that he has determined and that the Contractor is entitled to be paid the same in accordance with the provisions of this Article VI.

It shall be the duty of the Contractor to submit satisfactory proof of the amounts due under any or all of the above Sections (1) to (11) to the said Accounting Officer, which shall be submitted to him a reasonable time before any of the above payments are required to be made; and until such time as the proofs have been submitted, none of the amounts referred to in this Article shall be due or payable. In case of disagreement between the Contractor and the Accounting Officer as to any amounts due or payable, payment of only such portion as may be in dispute shall be withheld.

The amounts due under Sections (1), (2) and (3) hereof shall be determined as near as may be at the end of each week.

In the discretion of the Accounting Officer estimated figures may be used as the basis for payments made under this Article, subject to later adjustment.

The provisions of this Article VI are in all respects subject to the provisions of Articles XI and XII of this contract relating to the termination thereof.

Article VII. Determination of Costs and Payments.—The determination of the Actual Cost as in Article V hereof defined, and of all questions arising under Article VI, shall be promptly made by or under the direction of the Accounting Officer, in accordance with the terms of this contract.

The Contractor may, however, at any time before making or incurring liability for any expenditure for material, plant extension, equipment, or supplies relating to the performance of this contract, exceeding the sum of \$—— (\$——) in any one instance, give written notice of such intended expenditure to the representative of said Accounting Officer at the Contractor's plant, and thereafter the said Accounting Officer shall be estopped to question the propriety of the said expenditure unless he or his representative shall before the close of the third business day after service of notice of such intention, express in writing his disapproval thereof.

Written notice of any intended general increase by the contractor during the prosecution of this work in the rates of wages of any class of labor above the local current rate paid for similar labor shall be given by the Contractor to the officer in charge of the Division of Finance of the Signal Corps. The same shall be effective unless the officer in charge of the Division of Finance shall in writing disapprove thereof within ten days of the receipt of said notice.

The decision of the Accounting Officer on questions of the determination and allowance of costs, including the items to be deducted from or added to the total actual cost, as in Section (7) of Article VI provided, shall prevail, except that either upon the completion of the contract by the Contractor, or its termination by the Government, or whenever claims of cost amounting in the aggregate to \$—— shall have been disallowed by the said Accounting Officer, the Contractor may appeal to a Board, consisting of three officers of the United States Army appointed by the Secretary of War, whose decision shall be final and binding upon both parties.

Article VIII. Accounting Provisions.—The Accounting Officer, or his designee, shall have the right to provide, should he deem such action or actions necessary, a detailed classification of accounts with the definitions to be used in connection therewith, to prescribe the methods of accounting to be followed,

and the methods and bases for apportioning expense, provided that the Accounting Officer shall not prescribe definitions or regulations in disagreement with Schedule A, which is hereby incorporated in this Article as a part hereof. He shall also have the right to supervise and control the methods of storekeeping, and the books and records connected therewith, including the right to examine the same.

The Contractor agrees that at the commencement, and at the termination or the completion of the contract, he will make an inventory of such stores of materials and supplies as shall be used in connection with this contract, and the Accounting Officer or his designees may supervise the same and determine the methods and check the correctness thereof.

The Accounting Officer, or his designees, shall have access to the Contractor's books of account and record, and to all papers and memoranda relating to matters connected with this contract, and may audit and conduct investigations into all matters relating to this contract, provided that the information acquired in the course thereof shall be deemed confidential and shall not be divulged except with the Contractor's express permission therefor. He, or his designees, may make such investigations or examinations, not otherwise in the contract provided for, at each of the Contractor's plants, and at other points at his discretion, as may be useful or necessary in determining any questions relating thereto.

The Contractor shall furnish all reasonable facilities and assistance in connection with any and all things provided for in this Article.

The Contractor shall keep all such records in shape for ready reference, and preserve the same for a period of at least six (6) years after the completion of this contract.

Article IX. Inspection.—The Government shall have inspectors at each of the Contractor's factories and at other points at its discretion where and during the time the articles hereby contracted for and their component parts are being manufactured and tested, for the purpose of observing the manufacture and testing thereof, and of making such tests thereof as such inspectors may deem necessary or advisable in order to determine the compliance of such articles with the requirements of this agreement. And the inspectors shall promptly give a decision concerning acceptance or rejection subject to later rejection for cause, during the course of manufacture of the articles.

The Contractor agrees to afford or cause to be afforded to such inspectors the fullest opportunity of observing such articles and their component parts at all times during their manufacture, and of testing same, without unreasonable destruction of the Contractor's property at any time before delivery.

All articles hereby contracted for shall be subject to factory inspection and test, and to final acceptance or rejection by an inspector of the Government, after satisfactory completion of such inspection and test; it being understood, however, that the completed article is to be tested for performance only in accordance with the specification requirements, provided, however, that as to each completed article delivered to and accepted by the Government, the Government shall after such acceptance have no right to dispute its liability therefor or claim that the same was not manufactured in full compliance with the terms of this contract and the specifications attached hereto. The contracting officer shall provide an adequate number of inspectors so that production shall not be delayed.

Article X. Changes in Specifications.—No changes shall be made in the drawings or specifications attached hereto and made a part of this contract, except as provided in this Article.

Changes may be made at any time by mutual agreement between the Contracting Officer and the Contractor. In case of failure to agree, a written request for such changes shall be made by the party desiring same. The final

decision thereon shall be made by the Contracting Officer in writing after opportunity has been given by him for a hearing to the Contractor. A reasonable time for such hearing shall be set by the Contracting Officer, but production and acceptance shall proceed as before and shall not be interrupted thereby pending the final decision.

The total quantity of articles to be supplied under this contract shall be divided into ——— lots of ——— each. Changes determined upon during production of the first lot shall be applied only to production at the beginning of the third lot. Changes determined upon during production of the second lot shall be applied to production only at the beginning of the fourth lot, and so on throughout the contract, thereby allowing at least one lot to be produced between the determination of the change and its application to production, provided, that changes which may interrupt the continuity of production need not be incorporated in "the Articles" within six weeks from the decision of the Contracting Officer, as provided in the second paragraph of this Article.

Article XI. Termination before Completion.—In the event of the failure of the Contractor to substantially comply with the terms of this contract, or in the event that in the opinion of the Chief Signal Officer of the United States Army the public interests so require, this contract may be terminated by 30 days' notice in writing to the Contractor, without prejudice to any claim the Government may have against the Contractor, provided, that after receipt of said notice the Contractor shall not order any additional material, except by permission previously obtained from the accounting officer. The cancellation shall be deemed to be effective at the expiration of said thirty days' notice, except that cancellation in the case of default of the Contractor shall be immediately effective on receipt of notice. Thereupon, the Contracting Officer, with the approval of the Chief Signal Officer of the United States Army, may proceed to complete the making and delivery of the articles or any part thereof, as well as any additional articles, out of materials on hand, and may employ such agents and employees, including the Contractor, its agents and employees, as the Contracting Officer may deem necessary or desirable; and may take possession of the plant and property of the Contractor used in the performance of this contract, secure from the Contractor an assignment of all contracts and agreements relating to this contract (which the Contractor hereby agrees to assign, and upon failure to so assign, this agreement shall operate as such assignment), first repaying to the Contractor all sums which it shall have paid thereon and relieving the Contractor from further payments thereon, and may generally do and perform all acts and things necessary or advisable in order to obtain the articles which are the subject of this contract.

In the event and to the extent that the Government takes over the plant and property of the Contractor for the completion of this contract, the Contractor shall be paid a reasonable rental for the use of same, as may be mutually agreed upon between the Contracting Officer and the Contractor, or, if they fail to agree, as may be fixed by the Chief Signal Officer of the United States Army, as a reasonable rental, and the manufacture of the articles by the Government shall then be conducted without cost of any sort to the Contractor, the Government, however, reserving any claim which it may have against the Contractor. In case the Contractor is not satisfied with the rental fixed by the Chief Signal Officer the Contractor may appeal from his determination to the Board provided for in Article VII hereof.

In the event of the cancellation of this contract on account of the default of the Contractor, the Government shall pay to the Contractor all sums due at that date but for such default, less any damage sustained by the Government.

In the event of and upon the cancellation or termination of this contract, for any reason other than the default of the Contractor, the Government shall pay to the Contractor all expenditures incurred in connection with the performance of this contract not already paid to the Contractor and particularly including payment for all material purchased, all costs of production, including overhead, general administrative expense, etc., as itemized or scheduled in Article V hereof.

In addition thereto the Government shall make the following payments to the Contractor, namely:

(1) On each finished article accepted the sum provided as a fixed profit by Article IV, Item (2) hereof.

(2) On unfinished articles and parts thereof a sum to be determined as follows:

An inventory shall be made of all materials and of all unfinished articles or parts thereof on hand at the cost of such materials and at the cost of manufacture of such unfinished articles and parts thereof, as hereinbefore defined. The Contractor shall be paid as a profit on the unfinished portion of this contract ten per cent. (10%) of the amount of this inventory in lieu of the fixed profit and proportion of saving in the cost of production of such partly completed articles.

(3) The Contractor shall, in event of such cancellation or termination, be relieved by the Government of all obligations incurred for the performance of this contract and not heretofore paid by the Government.

(4) The Government shall, if requested so to do by the Contractor, take over and pay the Contractor for all additional machinery required for and which the Contractor shall have provided in order to perform this contract, heretofore referred to as increased facilities, at the cost of such machinery to the Contractor, less depreciation thereon allowed by the Government to the Contractor.

The foregoing provisions with respect to payments to be made by the Government upon the termination or cancellation of this contract, for any cause except the default of the Contractor, shall also apply in the event that the continued performance by the Contractor of this contract is finally prevented by acts of war, riots, incendiarism, or other causes beyond the control and without the fault of the Contractor, which may be directly traceable to the United States being in a state of war, provided that the Government shall have the benefit of any insurance which the Contractor may carry upon material provided for or articles manufactured under this contract, and upon such increased facilities as the Government shall have paid for or be obligated to pay for, its pro rata share of such insurance.

In the event of the termination of this contract as aforesaid, any and all obligations of the Government to make any payments to the Contractor hereunder, other than those specified in this contract, shall at once cease and determine.

Article XII. Special Test of Articles.—Without prejudice to the right of the Government to cancel this contract for any other reason, it is agreed that, in view of the fact that the articles to be furnished under this contract, and the designs therefor, are in a state of development, this contract shall be subject to the condition that a certain number of articles, as determined in the specifications, when produced by the tools provided by the Contractor, shall be submitted to a test such as is provided in the specifications. If such articles fail to pass such tests successfully, then in that event the Government may cancel this contract, and in which event the Contractor shall be paid as remuneration as hereinbefore provided in case of cancellation, for causes other than Contractor's default.

Article XIII. Disposition of Property on Termination or Completion.—Upon the completion of this contract, whether by the Contractor or the Government, or the termination of the contract without further performance thereof, or from time to time during the performance of this contract, the Contractor agrees to make such disposition at the expense and for the account of the Government, of the increased facilities paid for by the Government, unused material, rejected articles, and generally all such other property which shall have been paid for by the Government, as the contracting officer shall, in writing, direct; such directions to be given during the performance of this contract, or within sixty (60) days after its termination or completion, provided that material or facilities for use in connection with this contract or other contracts between the parties hereto shall not be disturbed.

Any of the foregoing property may be sold to the Contractor by the Contracting Officer, upon terms mutually agreeable. If the Contractor is required to store such property, the period of such storage shall not exceed six (6) months from the completion of the contract or its cancellation, and the cost of storage and all costs incident thereto shall be, from time to time, paid to the Contractor by the Government.

If land and buildings of the Contractor are used for storage, the Government shall pay the Contractor a reasonable rental therefor, as may be mutually agreed upon; or if agreement is impossible, as may be fixed by the Chief Signal Officer, but in no event to be more than at the rate of ten per cent. (10%) per annum of the cost of such land and buildings to the Contractor, or a proportion of such cost according to the proportion of land and buildings used.

It is agreed that the foregoing measure of payment shall apply to any storage of articles in accordance with Article III hereof.

Article XIV. Covenant Against Encumbrances.—The Contractor agrees not to create or suffer to be created any mortgage, lien, pledge or other encumbrance upon any of the increased facilities, materials, supplies or other property for which the Government under the terms of this contract shall reimburse the Contractor, and which is in the possession of the Contractor, and further agrees not to permit or suffer any attachments, mechanics' liens or other liens or encumbrances to attach to such property or the articles, and in the event that any such attachment, lien or encumbrance is created, agrees to pay or discharge the same, to the end that all property which shall have been paid for by the Government, shall be and remain the free and unencumbered property of the Government, provided that nothing in this article contained shall require the Contractor to make any such payments so long as it shall in good faith contest the validity of the claim or claims therefor, and so long as the delivery of the articles is not interfered with, and provided further, that the Contractor shall give bond for the claim asserted.

The Contractor shall give due notice that all property which shall have been paid for by the Government, belongs to the Government.

Article XV. Contract not Assignable by Contractor.—Neither this contract nor any interest therein shall be transferred or assigned by the Contractor to any person, firm or corporation.

Article XVI. Officials not to Benefit.—No member of or delegate to Congress, or resident commissioner, is or shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom. But this article shall not apply to this contract so far as it may be within the operation or exceptions of Section 116 of Act of Congress, approved March 4, 1909 (35 Stats. 1109).

Article XVII. No Prison Labor.—No person or persons shall be employed in the performance of this contract who are undergoing sentence or imprisonment at hard labor, which has been imposed by the courts of the several States, Territories or Municipalities having criminal jurisdiction.

Article XVIII. Settlement of Disputes.—Except as this contract shall otherwise provide, any doubts or disputes which may arise under this contract, shall be referred to a Board composed as provided in Article VII hereof for determination. If, however, the Contractor shall feel aggrieved at any decision of this Board upon such reference, it shall have the right (save only as to the allowance and determination of costs as provided for in Article VII hereof) to submit the same to the Secretary of War, whose decision shall be final.

Article XIX. Notice.—Notice under this contract shall be deemed to have been sufficiently given to and received by the Contractor when mailed in a sealed, post-paid wrapper and addressed to the Contractor. Whenever notice shall be given to the Contracting Officer, same shall be sufficient when mailed in a sealed, post-paid wrapper, addressed to the Chief Signal Officer of the United States Army, Washington, D. C., or when personally served on the Contracting Officer or his representative.

Article XX. Exploitation Forbidden.—The Contractor agrees to refrain from exploiting, by publicity or otherwise, its product manufactured in pursuance of this contract, or in any way publicly advertising the fact of the manufacture of said product, and to refrain from publishing, or causing or allowing to be published any photographs, drawings, written or printed matter, or other data disclosing the articles, or parts of same, or the process of manufacture, or the plans of the Government, or any information concerning the same, or which shall result in such disclosure. The Contractor agrees to submit all pictures or printed matter showing, describing or in any way relating to the progress of the work to be prosecuted under this contract, which he may desire to publish, before publishing the same, to the Chief Signal Officer of the Army, who may permit such publication, and shall have the right to censor the same, and the Contractor agrees that, during the term of this contract, it will not manufacture or sell any aeroplanes, aeronautical material or apparatus connected with the same for or to anyone whomsoever other than the Government, without obtaining a license therefor from the Chief Signal Officer of the Army; and the Contractor further agrees to strictly adhere to all requirements and regulations promulgated by the Navy Department or the War Department, with relation to the use of private aircraft.

Article XXI. Contracting Officer.—Whenever the term "Contracting Officer" is used in this contract, the same shall be construed to mean the Contracting Officer executing this contract, his successor or successors, his duly authorized agent or agents, or anyone designated by the Chief Signal Officer from time to time to act as Contracting Officer hereunder.

In witness whereof, the party of the first part has caused this contract to be executed by its proper officers thereunto duly authorized, and the United States of America has caused this contract to be executed by the undersigned Contracting Officer hereto duly authorized.

Witness: A. B.

Approved: E. F.

The X. Y. Company,

By C. D., President.

SCHEDULE A

Memorandum on Definition of Actual Costs and on Method of Collating Cost Data—Definitions.

Definition of Actual Cost.—The actual cost of production of the articles hereby contracted for is hereby defined as consisting of and including the following elements:

(1) The cost of all direct labor definitely ascertainable as used in the production of the articles herein contracted for.

(2) The cost of all direct materials and supplies definitely ascertainable as entering into or expended in the production of the articles herein contracted for.

(3) A fair amount to cover the depreciation accruing during the period of production of the articles under this contract on that portion of the plant, equipment and facilities owned by the contractor and used in or necessarily rendered idle on account of the production of the articles herein contracted for and properly chargeable thereto.

(4) A fair proportion of overhead expenses other than that included in item (3). By the term "overhead expenses" is meant the indirect labor and other manufacturing expenses, and the general and administrative expenses applicable to and necessary in connection with the production of the articles contracted for herein, provided that nothing herein shall be deemed to include interest, rent, advertising, collection expense, credit losses, discounts, and such taxes as income and excess profit taxes imposed by the Government of the United States.

Indirect Material.—Indirect material consists of such material as factory supplies, which, while used in the process of manufacture, either do not enter into the product, or else enter in such a way as not to be chargeable conveniently to any particular article.

Indirect Labor.—Labor used in repairing, handling, trucking, sweeping, supervising, etc.; in short, labor not expended directly upon the product may be classed in the overhead as part of the indirect labor.

Freight, Cartage and Express (Inward).—These items should be included and charged as part of the direct material costs. When such treatment is impracticable, they may be treated as part of the overhead costs.

Experimental Work.—Experimental work directly necessary in connection with this contract, not expressly provided for, may be included as part of the overhead cost.

No portion of experimental work on other products of the contractors shall be included in the Actual Cost, except relatively small residual expense which it is impracticable to allocate distinctly.

Defective Work.—It is recognized that work under this contract will be done under abnormal conditions, and, therefore, wastage, scrap and corrective labor thereon, which could not be avoided by the exercise of good faith, shall be allowed as an element of actual cost.

Taxes.—Taxes, excepting Federal taxes such as income and excess profits taxes, accruing during such time as the contract may be in process may be included as part of the overhead.

Liability Insurance.—Accrued liability insurance in so far as it covers employees working on Government contracts may be included as part of the overhead. Such accruals may cover premiums payable to insurance companies, state compensation boards, or sums paid under independent insurance plans not materially exceeding in cost those of insurance companies or state compensation boards.

Packing and Packing Supplies.—These items may include boxes, lumber, nails, containers, strapping, and miscellaneous packing supplies, and also the packing labor which is incurred, and these items may be included as part of the overhead.

Repairs.—The costs of repairs allowed in current expenses are those for repairs and alterations which are made currently to provide for the ordinary and regular upkeep of the plant, the cost of which is a usual and fairly consistent annual charge. Repairs and alterations of a general nature which are necessary only at intervals of more than a year, or replacements and unusual repairs which would involve a significant increase in the overhead expense shall not be considered as expense, but shall apply against the reserve established to provide for depreciation.

Scrap and Waste.—Whenever the scrap and waste and containers on Government work have a salvage value, this value should either be deducted from the material cost or from the overhead.

Administrative Expenses.—In the majority of cases the time of the administrative force is spent in supervising the selling organization, in solving problems of production, and in looking after the finance of the business; therefore administrative expense is partly a production cost, and partly a selling cost.

Only that portion of the administrative expense which is applicable to Government work may be included as part of the overhead costs.

Salaries.—Excessive salaries or other excessive compensation shall not be allowed. In order to form a basis for passing on this matter, an amount of salary or other compensation paid to any individual for the three years prior to the war shall be considered as one of the factors in determining the amount to be allowed.

Royalties.—Any royalties or payments which the contractor may be obliged to assume or pay for the use of any patent rights in connection with the production of the articles may be included in actual cost.

Rent.—Rent proper is not chargeable to actual cost but payments for rent shall be analyzed between (a) repairs and depreciation, and (b) return on investment, including interest on investment. For the purpose of this contract, that portion of rent payments estimated to represent cost of repairs and depreciation, shall be allowed in actual cost.

Employees' Welfare.—All of the following items may be included as overhead expense:

- (1) Wages paid employees while absent on account of sickness.
- (2) Expenses of operation and maintenance of plant hospitals, also medicine and supplies for first aid to the injured, expenditures for hospitals and other organizations to cover definite benefits to employees.
- (3) Payments according to a definite pension plan to disabled and veteran employees or their families, and not included in liability insurance or other items mentioned herein.
- (4) Net results of operating the contractor's restaurants.
- (5) Vacation allowances to wage earners.
- (6) Expenses in connection with employees' welfare, such as group insurance, conducting club rooms, rest rooms, reading rooms, and educational classes.

Discounts.—Trade discounts and discounts allowable for prompt payments shall be deducted from material costs.

Miscellaneous Deductions from Actual Cost.—There may be deducted from actual cost of production miscellaneous items of revenue accruing to the contractor in connection with the present contract.

Depreciation.—The rate of depreciation depends upon the following factors:

- (a) Nature and construction of buildings and equipment, together with their condition.
- (b) Deterioration of plant in general and of machinery in particular due to wear and tear.
- (c) Amount spent for maintenance in the way of repairs and renewals.
- (d) The invention of new methods or new machines which may or may not entirely replace the old ones.
- (e) Permanency of business, and likelihood of increase or decrease in the same.
- (f) Amounts previously written off for depreciation.
- (g) There are many additional factors, such as peculiar and excessive uses of machines, rate of production, idleness of plant.

Jigs, Etc.—The cost of all small tools, jigs, dies, patterns, machine tool fixtures, and other appliances of the same general nature, provided exclusively for the purpose of making the articles contracted for shall be included in Actual Cost.

Methods of Compiling and Ascertaining Costs

The contractor should use the following methods in presenting his final cost figures:

Method of Ascertaining Material Cost.—The following information should be compiled to support the material costs:

- (1) Summary showing the totals of the cost value of the various kinds of material used, and supported by original records, such as material reports and requisitions, bills of materials, specifications and production reports.
- (2) In determining the material cost, the actual prices paid should be used; where this is not practicable, fair average prices may be used.

(3) In ascertaining the material cost, all discounts should be deducted from the purchase price.

(4) Duties, import, expense, freight, cartage and express inward may be added to the purchase price of the material for the purpose of ascertaining the material cost, or those items may be included as forming a part of the overhead expense items as heretofore mentioned.

Method for Ascertaining Direct Labor Cost.—The following information should be compiled to support the direct labor costs:

(1) Summary showing the totals of the direct labor cost and supported by original records showing the operation, time and amount of wages paid to the employes engaged upon Government work. These original records may take the form of daily, weekly, or monthly time reports or other payroll records.

(2) Wage-rate records should be prepared, dated, and any changes therein noted, with the date thereof.

(3) All labor costs should be represented by wages, computed as above, and actually paid to the respective employes. These wages must be in agreement with the payroll records.

Method of Ascertaining Overhead Cost.—The following information should be compiled to support the overhead costs:

(1) Final summary showing the totals of overhead by productive departments.

(2) Summaries showing the overhead in each productive department, giving the amount distributed and applicable to Government work. These summaries will include all overhead charged to the productive departments.

(3) Summaries of the detailed items composing the overhead directly charged to each productive department where Government work is done.

(4) Summaries showing the detailed items composing the overhead directly charged to each non-productive department and the distribution of these items.

(5) Summaries showing the detailed items composing the general operating expenses and the distribution of these items.

(6) Summaries showing the detailed items included in general and other overhead expense, if any, directly applicable and chargeable to the production of the articles contracted for.

(7) The methods or bases used in the distribution of the overhead should be specified. This includes the following: (a) The method or basis used for applying the productive department overhead to the job, order, article, or contract; (b) the method or basis used for distributing the non-productive department overhead; (c) the method or basis used for distributing the general operating expenses.

(8) When mentioning the methods which are used, the various percentages or rates of overhead used should be specified.

Principles of Distribution of Overhead Expenses.—(1) If a cost system is in use and the method of distributing the overhead of departments and product is one that is based on well-defined principles, the method of distribution may be accepted by the Accounting Officer.

(2) The period of time covered by the distribution of the overhead should be in accordance with the cost period, which should not be more than five weeks. If a cost system is not in use, the distribution of costs should be made at least monthly, according to the calendar month, if possible.

(3) Standard methods of distribution of overhead are first, direct labor cost; second, direct labor hours; third, machine hours.

First.—If the wages in an individual operating department are fairly uniform, it will not make any particular difference whether the overhead is distributed on labor costs or labor hours. If, however, there is high and low priced labor in an operating department, it is more accurate to use direct labor hours, especially if both Government and commercial work is being handled in that department.

Second.—The method of distribution of overhead by the direct labor hours is, in the majority of cases, the most accurate method.

Third.—As between direct labor distribution and machine hour distribution, the guiding principle is that wherever the work depends upon the skill of the

workman, and the machine or implements that he uses are merely his tools, the direct labor or cost is the logical method to use. If, however, automatic machines are used, or in cases where one man may run two or more machines, the machine rate is the logical one to use.

Fourth.—Overhead is often distributed on a fixed basis determined in advance of incurring the expense and estimated on the basis of past experience. Where this is done the estimate must be reduced to actual figures from time to time during the life of the contract; and, in any case, in the cost determination at the termination of the contract.

For contracts of the United States, see §§ 1842 et seq.

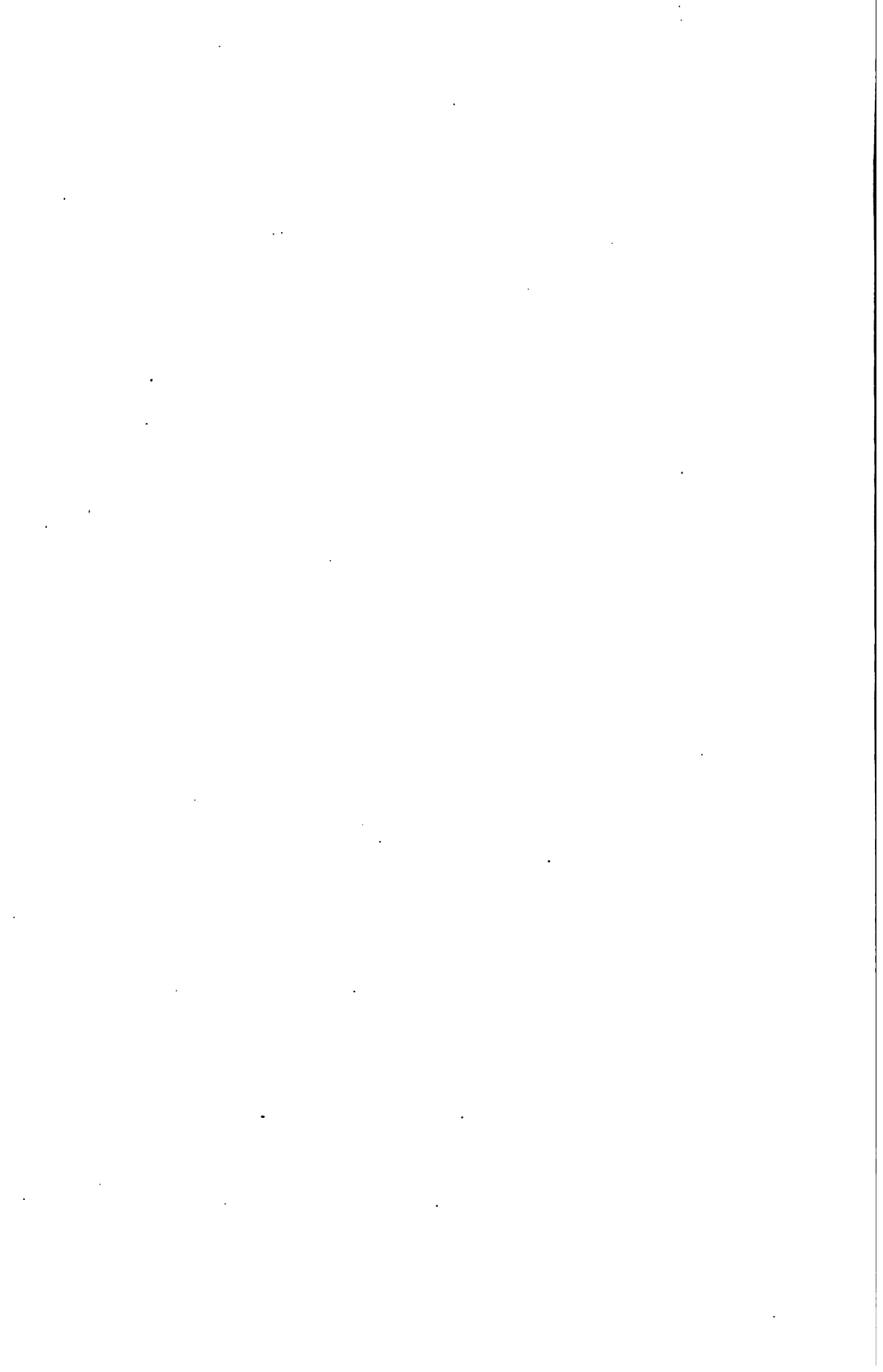


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For purposes of arrangement names beginning with Mac, Mc or M' are separated from those beginning with M. Other prefixes, such as La-, O' and Van, are arranged each under its initial letter. Abbreviations such as Ft. and St. are arranged in the order which they would occupy if spelled in full.

All cases in which the name of the plaintiff is "Bank" are arranged together under Bank, in the order of the names of the defendants, without regard to the full name of the plaintiff. All cases in which the name of the plaintiff is "Railroad" or "Railway" are arranged together under Railroad, in the order of the names of the defendants, without regard to the full name of the plaintiff. All cases in which the name of the plaintiff is "Trust Co.," are arranged together under Trust Co., in the order of the names of the defendants, without regard to the full name of the plaintiff.

This arrangement is not followed where other names are combined with the foregoing; such as Bank and Investment Co.; Railway and Power Co. or Trust and Safety Deposit Co.

No distinction is made between Pittsburg and Pittsburgh.

All other corporate names, as well as names of individuals, are arranged in alphabetical order.

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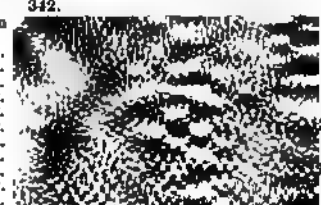
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[References are to sections. Vol. I, §§ 1 to 654; Vol. II, §§ 657 to 1426; Vol. III, §§ 1429 to 2619; Vol. IV, §§ 2620 to 2873; Vol. V, §§ 2874 to 3169; and Vol. VI, §§ 3170 to 3761.]

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[References are to sections. Vol. I, §§ 1 to 386; Vol. II, §§ 387 to 1423; Vol. III, §§ 1423 to 2619; Vol. IV, §§ 2620 to 2673; Vol. V, §§ 2674 to 3169; and Vol. VI, §§ 3170 to 3761.]

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[References are to sections. Vol. I, §§ 1 to 686; Vol. II, §§ 687 to 1429; Vol. III, §§ 1429 to 2019; Vol. IV, §§ 2020 to 2573; Vol. V, §§ 2574 to 3169; and Vol. VI, §§ 3170 to 3761.]

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[References are to sections. Vol. I, §§ 1 to 686; Vol. II, §§ 687 to 1429; Vol. III, §§ 1429 to 2619; Vol. IV, §§ 2620 to 2873; Vol. V, §§ 2874 to 3169; and Vol. VI, §§ 3170 to 3761.]

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[References are to sections. Vol. I, §§ 1 to 686; Vol. II, §§ 687 to 1428; Vol. III, §§ 1429 to 2019; Vol. IV, §§ 2020 to 2573; Vol. V, §§ 2574 to 3169; and Vol. VI, §§ 3170 to 3761.]

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- For rights arising on discharge, see DAMAGES, 3170 to 3235; QUASI-CONTRACT, 3236 to 3273; SPECIFIC PERFORMANCE, 3274 to 3370; INJUNCTION, 3371 to 3396 and RESCISSION IN EQUITY, 3397 to 3422.
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[References are to sections. Vol. I, §§ 1 to 686; Vol. II, §§ 687 to 1428; Vol. III, §§ 1429 to 2019; Vol. IV, §§ 2020 to 2572; Vol. V, §§ 2573 to 3169; and Vol. VI, §§ 3170 to 3761.]

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[References are to sections. Vol. I, §§ 1 to 686; Vol. II, §§ 687 to 1428; Vol. III, §§ 1429 to 2019; Vol. IV, §§ 2020 to 2573; Vol. V, §§ 2574 to 3169; and Vol. VI, §§ 3170 to 3761.]

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[References are to sections. Vol. I, §§ 1 to 686; Vol. II, §§ 687 to 1428; Vol. III, §§ 1429 to 2019; Vol. IV, §§ 2020 to 2573; Vol. V, §§ 2574 to 3168; and Vol. VI, §§ 3170 to 3761.]

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[References are to sections. Vol. I, §§ 1 to 686; Vol. II, §§ 687 to 1428; Vol. III, §§ 1429 to 2019; Vol. IV, §§ 2020 to 2573; Vol. V, §§ 2574 to 3169; and Vol. VI, §§ 3170 to 3761.]

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